

Fax: (972) 450-7043

AGENDA

WORK SESSION OF THE CITY COUNCIL

6:00 P.M.

AND

REGULAR MEETING OF THE CITY COUNCIL

JULY 10, 2007

7:30 P.M.

TOWN HALL

5300 BELT LINE ROAD

WORK SESSION

<u>Item #WS1</u> - Discuss Citizen Advisory Committee Process.

<u>Item #WS2</u> - Presentation and update by John Murphy, Addison's Representative on the Regional Transportation Council, regarding the activities of the North Central Texas Council of Governments.

REGULAR SESSION

- <u>Item #R1</u> Consideration of Old Business.
- <u>Item #R2</u> Consent Agenda.
- #2a Consideration and approval of the Minutes for 06/26/2007 Council Meeting Agenda.
- #2b Consideration and approval to authorize the City Manager to remit the first and final payment to Northstar Construction, Inc., for Miscellaneous Pavement Repairs Bid 07-11.
- #2c Consideration and approval to award a bid to Striping Technology, L.P., in an amount not to exceed \$52,459.50 for the installation of pavement markings at various locations and to authorize the City Manager to execute a contract for the same.
- <u>Item #R3</u> Discussion regarding LEED (Leadership in Energy and Environmental Design). Requested by Councilmember Hirsch.
- PUBLIC HEARING regarding and consideration of approval of an Ordinance adopting Goals and Policies for the Brookhaven Village neighborhood, approximately 100 acres bounded by Spring Valley Road on the north, the City of Farmers Branch on the east, Brookhaven Community College on the south, and Marsh Lane on the west, as an amendment to the Town of Addison's Comprehensive Plan.

Attachments:

- 1. Council Agenda Item Overview
- 2. Proposed Goals and Policies (Addison Comprehensive Plan)
- 3. Process for redevelopment of Brookhaven Club neighborhood

The Planning and Zoning Commission adopted the attached Goals and Policies at its regular meeting on February 22, 2007.

Voting:

Voting Aye: Bernstein, Daseke, Gaines, Jandura, Wood

Voting Nay: None Absent: Chafin One seat vacant

Administrative Recommendation:

Administration recommends approval.

Item #R5 - Consideration of approval of an economic development incentive agreement between the Town of Addison and Authentix, Inc., relating to and regarding the expansion of Authentix, Inc., at 4355-4555 Excel Parkway.

Attachments:

- 1. Council Agenda Item Overview
- 2. Agreement with Authentix, Inc.

Administrative Recommendation:

Administration recommends approval.

PUBLIC HEARING regarding and consideration of approval of a Resolution providing for an amendment to the Town of Addison Transportation Plan in order to change the functional classification of Keller Springs Road, between Addison Road and the Dallas North Tollway, from a Principal Arterial (P) to a Minor Arterial (M), on application from Woodmont TCI Group VIII, LP, represented by Mr. Jim Duffy.

Attachments:

- 1. Thoroughfare Plan
- 2. Application
- 3. Memorandum

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, voting in regular session on June 28, 2007, voted to recommend approval of the proposed

amendment to the Town's Transportation Plan, on application from TCI

Woodmont Group XIII, L.P.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Administrative Recommendation:

Administration recommends approval.

Consideration of approval of (i) a Final Plat for the Keller Springs Lofts Addition, Lot 1 and Lot 2, Block A, totaling 7.370 acres and located at the southeast corner of Addison Road and Keller Springs Road, on application from Woodmont TCI Group VIII, LP, represented by Mr. Jim Duffy of Icon Partners, (ii) acceptance by the Town of a Declaration of Storm Water Detention Area in connection with the said Final Plat and property, and (iii) an Easement Relocation Agreement by and between Oncor, Southwestern Bell Telephone Company d/b/a AT&T Texas, Woodmont TCI Group VIII, LP, and the Town regarding utility easements located along Addison Road in connection with the said Final Plat and property.

Attachments:

- Docket map
- 2. Staff Report
- 3. Plat
- 4. Declaration of Storm Water Detention Area
- 5. Easement Relocation Agreement

COMMISSION FINDINGS:

The Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the final plat on application from Woodmont TCI Group VIII, LP, subject to the following conditions:

- 1. The plat shall be titled "final plat" prior to submitting for signature. The volume and page of the "Declaration of Storm Water Detention Area" shall be placed on the face of the plat prior to submitting for signatures.
- 2. Revise the following easement along Addison Road: "10' EASEMENT FOR FUTURE RELOCATION OF TXU & AT&T LINES, IN THE EVENT OF ADDISON ROAD WIDENING" to read "REFER TO EASEMENT RELOCATION AGREEMENT." The volume and page of which shall be placed on the face of the plat prior to submitting for signatures.

3. In the Transportation Plan, Keller Springs Road is designated as a principal arterial. The Transportation Plan requires that sufficient right-of-way for Keller Springs Road be dedicated for a principal arterial. The plat submitted for Keller Springs Lofts Addition fails to dedicate the additional eleven feet (11') of right-of-way required to build Keller Springs Road as a principal arterial. An application is on file from the applicant to amend the Transportation Plan. Plat approval should be conditional upon approval of the amendment.

It should be noted that the Town of Addison intends to improve Keller Springs Road and Addison Road in the future. None of the driveways shown on the Development Plans for Keller Springs Lofts meet the required minimum separation to receive a median opening in the future. As a result, the Town of Addison reserves the right to limit access to right in/right out when Addison Road or Keller Springs Road are improved.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Administrative Recommendation:

Administration recommends approval.

Item #R8 - Consideration of approval of a Final Plat for the Addison Storage Addition consisting of one lot of .426 acres, located in an Industrial-3 zoning district at 4700 Ratliff Lane, on application from Addison Storage Associates, represented by Mr. Bruce Myers.

Attachments:

- Docket map
- 2. Staff Report
- 3. Plat

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the final plat on application from Addison Storage Associates, subject to the following conditions:

1. Please correct the spelling of Glenn Curtiss on both the face of the plat and the Owner's Certificate.

- 2. Revise the "Certificate of Approval" to be approved by the City Council and signed by the Mayor and City Secretary.
- 3. Change all references of "City of Addison" to "Town of Addison."
- 4. Remove the building setback line.
- 5. The preamble of the Owner's Certificate is used twice. Please remove the duplicate text.
- 6. Please remove the arcane symbols from the Owner's certificate.
- 7. The Dedication Statement from the Town of Addison Code of Ordinances shall be utilized.
- 8. The reference in the Owner's Certificate of 102.66 feet does not match what is shown on the face of the plat as 120.66'. Please verify and utilize the correct dimension.
- 9. The Owner's Certificate calls for an "X" cut and a ½" IRS is shown on the face of the plat. Please verify and utilize the correct monument type.
- 10. Provide a closure sheet.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Administrative Recommendation:

Administration recommends approval.

PUBLIC HEARING regarding and consideration of approval of an amendment to the existing zoning (PD Planned Development District) on a tract of land approximately 1.774 acres in size and located at the northwest corner of Addison Road and Sojourn Drive, by adding thereto a Special Use Permit for the use of the said land for a private school (Trinity Christian Academy), represented by Mr. Gene Jameson of Jameson & Powers, LLP.

Attachments:

- Docket map
- 2. Staff Report
- 3. Plans

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the request for amendment to the Special Use Permit on application from Trinity Christian Academy, subject to the following conditions:

Prior to the issuance of a Certificate of Occupancy for the building, a crosswalk shall be installed that includes the following items:

- -260 feet of sidewalk, 5.5 feet wide, installed from the west property line of Trinity Christian Academy across the Addison Place site to the easternmost driveway at the Addison Place neighborhood.
- -a 10-foot wide crosswalk, marked with high conspicuity reflective markings in a ladder configurations consisting of 24" solid stripe, 24" gap, 24" solid stripe.
- -an S1-1 crosswalk warning sign with an W16-7pR plaque, placed at least 2 feet off the curb immediately adjacent to the crosswalk.

The landscaping on the site shall be renovated in accordance with the approved plan on file before the issuance of a Certificate of Occupancy.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Administrative Recommendation:

Administration recommends approval.

<u>PUBLIC HEARING</u> regarding and consideration of approval of an amendment to an existing Special Use Permit for a restaurant, and to an existing Special Use Permit for the sale of alcoholic beverages for onpremises consumption, to reflect the expansion of the premises located at 5100 Belt Line Road (Village on the Parkway), on application from Sherlock's Baker Street Public House & Grill), represented by Mr. Leo Parker of Parker Project Management and Construction.

Attachments:

- 1. Docket map
- 2. Staff Report
- 3. Plans

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the request on application from Sherlock's, subject to the following conditions:

A registered architect shall verify that the restaurant/pub portion of the restaurant is still less than 5,000 square feet after the addition of the restrooms.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Administrative Recommendation:

Administration recommends approval.

Item #R11 - Consideration of approval of the award of a bid to Brothers Heating & Air Conditioning Inc., for Heating, Ventilating, Air-Conditioning (HVAC) Annual Maintenance Services for all Town owned facilities, and authorizing the City Manager to enter into a contract for the same.

Attachments:

- 1. Council Agenda Item Overview
- 2. HVAC Bid Tabulation

Administrative Recommendation:

Administration recommends approval.

Item #R12 - Consideration of approval of a Non-Standard Lighting Fixture Agreement between the Town of Addison and Oncor (TXU Electric Delivery Company) regarding the ownership, installation, and maintenance of non-standard street lighting fixtures in the Oaks North subdivision within the Town, and authorizing the City Manager to execute the same.

Attachments:

- Council Agenda Item Overview
- 2. Non-Standard Lighting Agreement

Administrative Recommendation:

Administration recommends approval.

<u>Item #R13</u> - Consideration of approval of a Discretionary Service Agreement between the Town of Addison and Oncor (TXU Electric Delivery Company) for the

purchase and installation of certain non-standard street lights in the Oaks North subdivision within the Town, and authorizing the City Manager to execute the same.

Attachments:

- 1. Council Agenda Item Overview
- 2. Oaks North Lighting Proposal
- 3. Oaks North Lighting Map

Administrative Recommendation:

Administration recommends approval.

<u>Item #R14</u> - Consideration of approval of Change Order No. 2, in the amount of \$61,242.60, for various items associated with the Paving and Drainage Improvements to Addison Road.

Attachments:

- Council Agenda Item Overview
- 2. Change Order No. 1
- 3. Change Order No. 2
- 4. Change Order No. 2a

Administrative Recommendation:

Administration recommends approval.

Item #R15 - Consideration of approval of a Resolution suspending the July 30, 2007 effective date of the proposal by Atmos Energy Corp., Mid-Tex Division ("Atmos") to implement interim GRIP (gas reliability infrastructure program) rate adjustments for gas utility investment in 2006; authorizing participation with the Atmos Cities Steering Committee ("ACSC") in a review and inquiry into the sufficiency of the filing and the basis of the proposed rate adjustments; authorizing intervention in administrative and court proceedings involving the proposed GRIP rate adjustments; requiring reimbursement of reasonable legal and consultant ratemaking costs by Atmos; and requiring delivery of the Resolution to Atmos and ACS legal counsel.

Attachments:

Council Agenda Item Overview

2. Resolution

Administrative Recommendation:

Administration recommends approval.

<u>Item #R16</u> - Consideration of approval of a Resolution modifying the Town representatives that can transact business with the TexPool local government investment pool.

Attachments:

- 1. Council Agenda Item Overview
- 2. Resolution

Administrative Recommendation:

Administration recommends approval.

<u>Item #R17</u> - Presentation of the Government Finance Officers Association (GFOA) "Distinguished Budget Presentation Award" for the fiscal year beginning October 1, 2006.

Attachment:

Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

<u>Item #R18</u> - Consideration of approval of an Ordinance amending the Town's annual budget for the fiscal year ending September 30, 2007.

Attachments:

- Council Agenda Item Overview
- 2. 2007 Amendments
- Ordinance

<u>Administrative Recommendation</u>:

Administration recommends approval.

<u>Item #R19</u> - Presentation and discussion of the Hotel Fund Long Term Plan.

Item #R20 - Consideration of approval of a Resolution authorizing the Town to pursue grant funding from various public and quasi-public agencies for the development of a hike/bike trail connecting the Les Lacs trail south through Brookhaven College and the City of Farmers Branch to an existing trail in Dallas, and north across Belt Line Road to the existing Arapaho Road trail.

Attachments:

None.

Administrative Recommendation:

Administration recommends approval.

Item #R21 - Consideration of approval of an Ordinance amending Chapter 14 (Aviation) of the Code of Ordinances of the Town of Addison by amending Division 3 (Off-Airport Access to Airport) of Article III (Municipal Airport) by amending Section 14-106(d) regarding the content of an Airport access permit (including assignment provisions), Section 14-106(f) relating to the term of an Airport access permit, and Section 14-107(g) (ii) regarding adjustment of the Airport access fee.

Attachments:

- 1. Council Agenda Item Overview
- 2. Ordinance

Administrative Recommendation:

Administration recommends approval.

<u>Item #R22</u> - Update, discussion and consideration of any action regarding pending litigation, to wit: *In re Calla Davis, et al*, Case No. 07-0147, Supreme Court of Texas, and Senate Bill 1735 filed with the 80th Regular Session of the Texas Legislature regarding and relating to the sale of alcoholic beverages within the Town.

Posted: July 6, 2007 at 5:00 p.m. Mario Canizares - City Secretary

THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST 48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL WORK SESSION

June 26, 2007 6:00 p.m. – Town Hall 5300 Belt Line Road **Upstairs Conference Room** Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Meier, Mellow and Niemann Absent: None Work Session Presentation and discussion regarding housing information. Item #WS1 -Carmen Moran presented the housing information. <u>Item #WS2</u> -Presentation and discussion of a new Hangar Development at Addison Airport. Bill Dyer with Addison Airport led the discussion regarding new Hangar Development at Addison Airport. There being no further business before the Council, the meeting was adjourned. Mayor

Attest:

City Secretary

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL REGULAR SESSION

June 26, 2007 7:30 p.m. – Town Hall 5300 Belt Line Road Council Chambers

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Meier, Mellow and

Niemann

Absent: None

Regular Session

<u>Item #R1</u> - Consideration of Old Business.

The following employees were introduced to the Council: Mushtaq Ali with the Finance Department and Eugene Carrera with the Public Works Department.

Mayor Chow recognized City Manager, Ron Whitehead for twenty-five years of service to Addison.

Item #R2 - Consent Agenda.

Items #2a and #2b were considered separately.

#2a - Approval of the Minutes for the 6/4/2007, 6/6/2007, 6/7/2007, 6/11/2007, 6/14/2007 Council Meeting and Council Meeting and Special Work Session Minutes for June 12, 2007. (Approved with noted corrections.)

Councilmember Kraft moved to duly approve the Minutes for the 6/4/2007, 6/6/2007, 6/7/2007, 6/11/2007, and 6/14/2007, and Council Meeting and Special Work Session Minutes for June 12, 2007, with the noted corrections.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>#2b</u> - Consideration of approval of an agreement with PPI Marketing to provide sponsorship services to the Town from June 1, 2007 through May 31, 2010, and authorizing the City Manager to execute the same.

After clarification of the time frame, Councilmember Kraft moved to duly approve an agreement with PPI Marketing to provide sponsorship services to the Town from June 1, 2007 through May 31, 2010, and authorizing the City Manager to execute the same.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

Item #R3 - Presentation and recognition of Lisa Pyles, Addison Airport Director.

Lisa Pyles, Addison Airport Director, was recognized and honored by Mayor Chow and the Council.

Item #R4- Presentation of WaterTower Proclamation.

Mayor Chow presented the WaterTower Proclamation to Judy Schecter, WaterTower Development Director.

<u>Item #R5</u> - Consideration and approval to authorize the City Manager to enter into an agreement with Oklahoma Public Safety in the amount of \$30,807 to fund the Police Department's Patrol Rifle Program.

Councilmember Meier moved to duly approve to authorize the City Manager to enter into an agreement with Oklahoma Public Safety in the amount of \$30,807 to fund the Police Department's Patrol Rifle Program.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>Item #R6</u> - Consideration of approval of an amendment to an existing planned development zoning district in order to add an allowed use, that use being: light assembly to include scientific production of security taggants and specialty ink systems through the use of materials engineering processes and other laboratory techniques. Allowed uses would also include nanotechnology, which is the control of matter on the scale of smaller than one micrometer. When these uses involve the production of powders, these powders will be restricted to production of powders whose average size is greater than 100 nanometers.

Mayor Chow continued the public hearing from 6/12/07. There were no questions or comments. Mayor Chow closed the meeting as a public hearing.

Councilmember Braun moved to duly approve an amendment to an existing planned development zoning district in order to add an allowed use, that use being: light assembly to include scientific production of security taggants and specialty ink systems through the use of materials engineering processes and other laboratory techniques. Allowed uses would also include nanotechnology, which is the control of matter on the scale of smaller than one micrometer. When these uses involve the production of powders, these powders will be restricted to production of powders whose average size is greater than 100 nanometers.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>Item #R7</u> - Discussion and consideration of approval of an economic development incentive agreement between the Town of Addison and Authentix, Inc. relating to and regarding the relocation of Authentix, Inc. to 4355-4555 Excel Parkway within the Town.

Councilmember Niemann moved to duly allow the City Manager, with approval of the City Attorney, to negotiate an incentive agreement with Authentix regarding the expansion at 4355-4555 Excel Parkway, contingent on receiving state funds through the Texas Enterprise Fund. In addition, that the Town's incentive does not exceed an amount equal to 10% of the Texas Enterprise Fund grant award.

Councilmember Meier seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>Item #R8</u> - Update Council on visit of the Banciao delegation and discussion of our Sister City.

Ron Whitehead led the discussion on the visit of the Banciao delegation to Addison.

<u>Item #R9</u> - Discussion and consideration of approval of a new Hangar Development at Addison Airport.

Mark Acevedo led the discussion regarding new Hangar Development at Addison Airport.

Councilmember Niemann moved to duly approve in concept only the hangar development as described (subject to and conditioned upon the City Council's review and approval of any agreement(s) regarding the hangar development and all terms and

conditions in connection therewith) and to authorize the City Manager and City Attorney to negotiate the terms and conditions of any agreement(s) regarding the hangar development.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>Item #R10</u> - Consideration and approval of award of bid to Jani-King International, Inc., for custodial services at the Service Center, Police & Police Sub-stations, Central Fire, Conference and Theatre Centre and Athletic Club facilities.

Councilmember Braun moved to duly approve award of the bid to Jani-King International, Inc., for custodial services at the Service Center, Police & Police Substations, Central Fire, Conference and Theatre Centre and Athletic Club facilities.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>Item #R11</u> - Consideration and approval of an Estoppel Agreement by the Town of Addison to and in favor of Macquarie Infrastructure Company, Inc., and Macquarie FBO Holdings, LLC on Addison Airport.

Councilmember Kraft moved to duly approve an Estoppel Agreement by the Town of Addison to and in favor of Macquarie Infrastructure Company, Inc., and Macquarie FBO Holdings, LLC on Addison Airport.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

Item #R12 - Consideration and consent to various items related to Ground Lease #016-1501 at Addison Airport to include: 1) Amending Ground Lease #016A-1501 so that the demised premises includes all the premises originally included in Ground Lease #016A-1601 and #016A-1501 into one leasehold, and to modify the rental required under the amended lease to correspond with and reflect the change to the demised premises; 2) Agree to early terminate Ground Lease #016A-1601; and 3) Consent to the

assignment of Ground Lease #016A-1501 from the Estate of Hazel M. Corry to Corry GP, LLC, a Texas limited liability company.

Councilmember Mellow moved to duly approve Item 1) Amending Ground Lease #016A-1501 so that the demised premises includes all the premises originally included in Ground Lease #016A-1601 and #016A-1501 into one leasehold, and to modify the rental required under the amended lease to correspond with and reflect the change to the demised premises; and Item 2) Agree to early terminate Ground Lease #016A-1601.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

Councilmember Niemann moved to duly approve Item 3) Consent to the assignment of Ground Lease #016A-1501 from the Estate of Hazel M. Corry to Corry GP, LLC, a Texas limited liability company.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

Item #R13 - Presentation and discussion of Airport fund long-term plan.

Randy Moravec presented the Airport fund long-term plan.

<u>Item #R14</u> - Presentation and discussion of Utility fund long-term plan and discussion of Addison's water and sewer rates.

Randy Moravec presented the Utility fund long-term plan and discussion of Addison's water and sewer rates.

At 10:56 P.M., Mayor Chow announced that Council would convene into Executive Session to discuss the following Items:

<u>Item #ES1</u> - Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) regarding certain pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and/or a settlement offer in connection therewith.

Item #ES2 - Closed (executive) session of the City Council pursuant to Section551.071, Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) about pending litigation, to wit: Eddins Enterprises, Inc., dba Friendly Aviation and RSP Management Services, Inc. v. The Town of Addison, Texas, Cause No. 05-11030-K, 192nd Judicial District Court, Dallas County, Texas.

The Council came out of Executive Session at 11:42 P.M.

<u>Item #R15</u> - Consideration of action in connection with certain pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and/or a settlement offer in connection therewith.

Councilman Niemann moved to duly approve a move allowing the City Manager to enter into a settlement agreement in connection with certain pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

<u>Item #R16</u> - Discussion and consideration of any action in connection with or related to pending litigation, to wit: Eddins Enterprises, Inc., dba Friendly Aviation and RSP Management Services, Inc. v. The Town of Addison, Texas, Cause No. 05-11030-K, 192nd Judicial District Court, Dallas County, Texas.

Councilman Niemann moved to duly approve the City Manager to pursue mediation in connection with or related to pending litigation, to wit: Eddins Enterprises, Inc., dba Friendly Aviation and RSP Management Services, Inc. v. The Town of Addison, Texas, Cause No. 05-11030-K, 192nd Judicial District Court, Dallas County, Texas.

Councilmember Meier seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None Absent: None

There being no further business	before the Council, the meeting was adjourned.
	Mayor
Attest:	
	<u>_</u>
City Secretary	

Council Agenda Item: #2b

SUMMARY:

This item is to authorize first and final payment to Northstar Construction, Inc. in the amount of \$142,150.00 for Miscellaneous Pavement Repairs – Bid 07-11.

FINANCIAL IMPACT:

Budgeted Amount: \$140,000

Contract Amount: \$139,900

Final Contract Amount: \$142,150

This project, including the increased amount, is funded for 2007 in the Street Operations Budget.

BACKGROUND:

On April 24, 2007 Council awarded a contract to Northstar Construction, Inc for miscellaneous pavement repairs on various Town streets. The original contract price was \$139,900. Prior to the start of construction, Town Staff added to the contract one pavement failure on Sakowitz Drive. The contractor agreed to make the necessary repair at the contract unit cost per square yard, which came to an additional \$2,250.

Northstar Construction, Inc. did an excellent job on all repairs, and completed the work in a timely manner.

RECOMMENDATION:

Staff recommends first and final payment to Northstar Construction, Inc. in the amount of \$142,150 for Miscellaneous Pavement Repairs – Bid 07-11.

#2b Application For Payment

Client :	: Town of Addison			Engineer				Town of Addison - Public Works				
	5350 Belt Line Road			J.		P.O. Box 90			10			
	Addison, Texas 75001							Addison, Tex	kas	75001-9010		
Project :	Miscellaneous Pavement Repairs - Bid 07-11					Contract Awa	arded :			May 4	4, 20	007
•	·					Contract Amo	ount :			\$139		
Period:	eriod: June 3, 2007 to June 20, 2007				Calendar Days Allotted :				21			
			Used Previously To Date :				0					
Est. No.	No.: 1 & Final				Used This Period :				17			
				Remaining Days To Finish :				4				
Item	Description	Contract	Units		Unit	Previous	Current	TOTAL		Current		Total
No.	·	Quantity			Price	Quantity	Quantity	Quantity		Amount		Amount
101	Mobilization, Bonds, & Insurance	1	LS	\$	24,000.00	0	1	1	\$	24,000.00	\$	24,000.00
102	Barricades, Signs, & Traffic Control	1	LS	\$	10,000.00	0	1	1	\$	10,000.00	\$	10,000.00
103	Concrete Excavation	706	SY	\$	20.00	0	706	706	\$	14,120.00	\$	14,120.00
104	8" - Class "K" Concrete (255 PSI Flex. in 4 Hr.)	706	SY	\$	130.00	0	706	706	\$	91,780.00	\$	91,780.00
201	Concrete Excavation - Sakowitz	14	SY	\$	20.00	0	15	15	\$	300.00	\$	300.00
202	8" - Class "K" Concrete (255 PSI Flex. in 4 Hr.)	14	SY	\$	130.00	0	15	15	\$	1,950.00	\$	1,950.00
Certified	By:					TOTAL COM	PLETED THI	S PERIOD			\$	139,900.00
								TED THIS PE	RIO	D	\$	2,250.00
STORED MATERIALS THIS PERIOD								\$	-			
	Northeaten Organization Inc.	D-4		ı		TOTAL COM	TOTAL THIS				\$	142,150.00
	Northstar Construction, Inc. 3210 Joyce Drive	Date	9			TOTAL COM		DATE ED TO DATE	_		φ	139,900.00 2,250.00
	Fort Worth, Texas 76116					STORED MA					φ \$	2,250.00
	Tott Worth, Texas 70110					OTORED WIF	TOTAL TO E				\$	142,150.00
					LESS RETAINAGE - 0%						\$	-
NET AM						NET AMOUNT EARNED ON CONTRACT				\$	142,150.00	
					LESS AMOUNT OF PREVIOUS PAYMENTS					S	\$	<u> </u>
	Town Of Addison	Date	;	•		AMOUNT DU	JE THIS EST	IMATE			\$	142,150.00

Council	Agenda	Item:	#2c

SUMMARY:

This item is to award a bid to Striping Technology, L.P. for the installation of pavement markings at various locations.

FINANCIAL IMPACT:

Budgeted Amount: \$55,000

Cost: \$52,459.50

This project is funded for 2007 in the Street Department Operations Budget.

BACKGROUND:

On an annual basis the Street Division contracts the replacement of worn and missing pavement markings. We have identified 50 locations in need of replacement markings. These markings include stop bars, directional arrows, crosswalk bars and numerous buttons.

Prior to bids being opened on June 25, 2007, this project was advertised twice in the Dallas Mornings News and listed with Demand Star resulting in seven contractors requesting specifications. One contractor, Striping Technology, L.P. submitted a reasonable bid and has successfully completed other pavement marking projects in Addison.

Public Works staff has always been challenged finding competent contractors interested in submitting bids on pavement marking replacement projects such as this one. Small, multiple-location projects in high traffic communities like Addison are less favorable to contractors, especially during periods of active development in both the private and public sectors.

RECOMMENDATION:

Staff recommends awarding this project in the amount of \$52,459.50 for the installation of pavement markings citywide to Striping Technology, L.P.

Reflectorized Pavement Markings #2c Bid No. 07-17

DUE: June 25, 2007

2:30 PM

BIDDER	Bid Bond	Signed	Total Bid
Striping Technology, L.P.	у	у	\$52,459.50
		·	

Shanna N. Sims

Shanna N. Sims, Strategic Services Manager

Katie H. Roller

Witness

Council Agenda Item:<u>#R3</u>

There are no attachments for this item.

Council Agenda Item: #R4

DEPARTMENT:

Development Services, Planning and Zoning

SUMMARY:

Requesting approval of an Ordinance adopting Goals and Policies for the Brookhaven Village neighborhood as an amendment to the Town of Addison's Comprehensive Plan

FINANCIAL IMPACT:

None

BACKGROUND:

The Goals and Policies were brought forward by the staff, in conjunction with the Planning and Zoning Commission. The Goals and Policies should set a direction for any future rezoning actions that might be enacted in the neighborhood.

The Planning and Zoning Commission adopted the attached Goals and Policies at its regular meeting on February 22, 2007.

The Council should note that the Goals and Policies contain a policy says:

6. Investigate and pursue options for an environmentally sustainable community, including following LEED standards for building and neighborhood design.

In February, when the Goals and Policies were approved by the Commission, there was some discussion of pursuing a LEED neighborhood. However, since that time, the Environment Committee has made its report, and has recommended this be a LEED neighborhood. The mood in the city at this time seems to be leaning toward **requiring**, rather than **encouraging** this redevelopment of Brookhaven to be a LEED certified redevelopment.

If the Council wants to require this redevelopment to be LEED certified, it must give the staff direction on two points:

- 1. What level of LEED certification will it require: certified, silver, gold, or platinum?
- 2. Will the Council require:
 - -LEED –ND certification for the neighborhood, which is not currently available, and LEED certification for all new construction in the neighborhood,

- -LEED only for the buildings in the neighborhood, or
- -LEED-ND for the neighborhood (when it is available) and not LEED for the buildings?

RECOMMENDATION:

Staff recommends the Council pass an Ordinance adopting the Addison Comprehensive Plan Goals and Policies for the Brookhaven Village neighborhood.





Addison Comprehensive Plan

#R4

Brookhaven Village

Background

The Brookhaven Village Area, defined by Spring Valley Road on the North, Marsh on the West, Brookhaven Community College on the south and the Town limit on the east, provides an opportunity to create an exciting new sustainable pedestrian-oriented community within the Town of Addison.

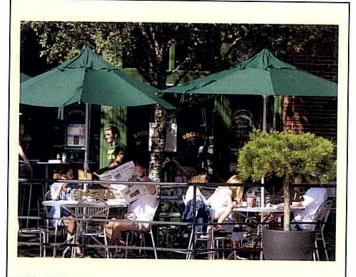
Sustainable Community. A neighborhood achieves true sustainability when it offers a mix of uses including retail and restaurants, pedestrian-orientation, and a range of housing types to accommodate a person's full life-cycle. This is the type of neighborhood that can develop a palpable "sense of community" because people do not have to move out when their housing needs change. Residents get to know their neighbors and stay engaged because they are committed to the community. These are also the types of neighborhoods that will attract reinvestment over time.

Residential Unit Type. It is important to diversify the unit type in the Village so that a range of household types are attracted, and residents are provided with opportunities to move up or down to units of different sizes and with different amenities.

Neighborhood Retail. Greenhaven
Village Shopping Center has the
opportunity to both retain its auto-oriented
business from Marsh and Spring Valley,
and to create a new destination in the
area by adding "third place"
neighborhood-oriented retail. This
pedestrian environment has proven
successful throughout the region in
conjunction with higher density residential
projects like Addison Circle, Legacy Town
Center, West Village and others.

Connections. A key ingredient to creating desirable and sustainable communities is providing connections -- connections between home, work, recreation, retail, dining and education.

Brookhaven Village residents would be able to walk or bicycle to Greenhaven Village Shopping Center at the southeast corner of Spring Valley and Marsh,



Third Places

Sociologist Ray Oldenburg coined the phrase "Third Places" to describe locations other than home (the first place) or work (the second place) that provide an informal gathering spot in which boundaries such as professional disciplines, social standing, or corporate rank are not recognized, and informal networking and chance conversations among patrons can lead to exchanges of ideas. They are also often used as ad hoc work and meeting places by clientele not tied to a traditional workplace, setting the stage for still more chance interactions. Coffee shops, pubs, alfresco cafes and even bookstores can qualify as third places.





Brookhaven Community College, Green Hill School, Brookhaven Country Club and Addison's trail system and Athletic center.

Creek Corridor. The corridor along the creek, which is named "Farmers Branch." provides an opportunity to preserve flood plain and create an open space amenity with trails that will connect to Brookhaven Community College and to the Town's trail system and Athletic Center. This corridor will provide an important link in a Town-wide system connecting Town Hall to Addison Circle, retail and restaurant districts to the Community College. This will be a major amenity for residents.

Access. Brookhaven Club Drive should be enhanced to provide a signature tree lined street with parking, entry features and a round-about. As illustrated in the Brookhaven Village Concept Diagram, it could also include a trail that would connect the Town's trail system to Farmers Branch and Brookhaven County Club.

A new diagonal roadway from Marsh to the Community College, called Brookhaven Commons Drive on the diagram, would create a central focus for the community at the round-about and provide a new entry to both the Village neighborhood and the Community College. This would also serve as an important pedestrian corridor to connect with the retail area.

Environmental Responsiveness. New development should sensitively respond to the unique conditions of this neighborhood and the environment of north central Texas. Following principles established for LEED certification of buildings (Leadership in Energy and Environmental Design) and neighborhoods (LEED-ND) by the U.S. Green Building Council (USBC), site and building layout and design should address such issues as:

- Neighborhood layout, diversity of uses and linkages to surrounding areas to facilitate pedestrian and bicycle movement and outdoor use.
- Design of pedestrian paths, streets and public areas including providing shade, green areas and places for social gathering and interaction.
- The orientation, design and construction of new buildings to minimize net energy and water use and improve air quality.

Policies

- Create an enhanced tree-lined Brookhaven Club Drive with on-street parking to slow traffic, a round-about to discourage through traffic and a pedestrian trail.
- Create a new street (Village Commons Drive) that crosses Brookhaven Country Club Dr. at 90 degrees and provides a new entrance to the community from Marsh Lane through Greenhaven Village Shopping Center, and a ceremonial entrance to Brookhaven Community College from the north.

An enhanced Brookhaven Club Drive and the new Village Commons Drive will help establish a village identity and provide a high quality armature around which the new neighborhood can be built.





Village Commons Drive also offers the opportunity to provide a prime location for performing arts, cultural and civic facilities. It should not however, handle any service traffic for the college.

3. Encourage a blend of residential unit types including town home and condominium/apartment; as well as high rise and low rise.

As often as possible, provide that all residential units at grade have windows and front door entries which face the sidewalk similar to the standards for Les Lacs Village.

- 4. Work with retail property owners to create a neighborhood-oriented "third place" environment that is well connected to the Village.
- Work with developers to include connections within and through their developments that will provide residents with greater non-vehicle-oriented connections.

This could include a trail along the enhanced Brookhaven Club Drive and along the [creek name] open space corridor.

Investigate and pursue options for an environmentally sustainable community, including following LEED standards for building and neighborhood design.

This would not include a requirement for LEED certification, but rather ensure a serious response to the importance of creating a sustainable neighborhood.





Addison Circle



Addison TXU Right-of-Way



Chicago



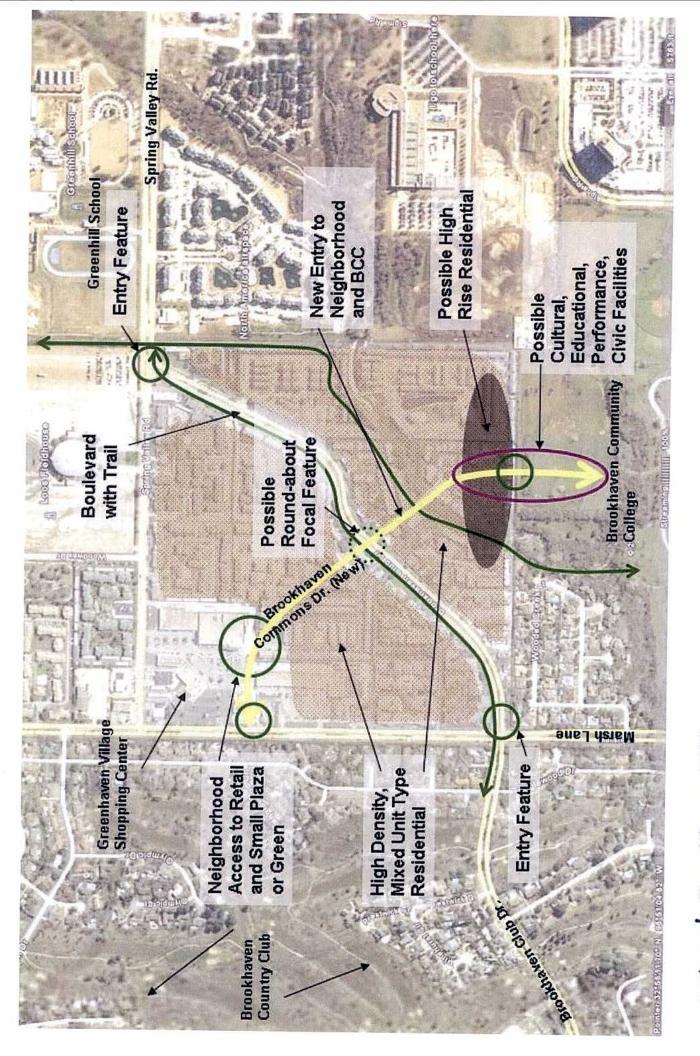
Vancouver



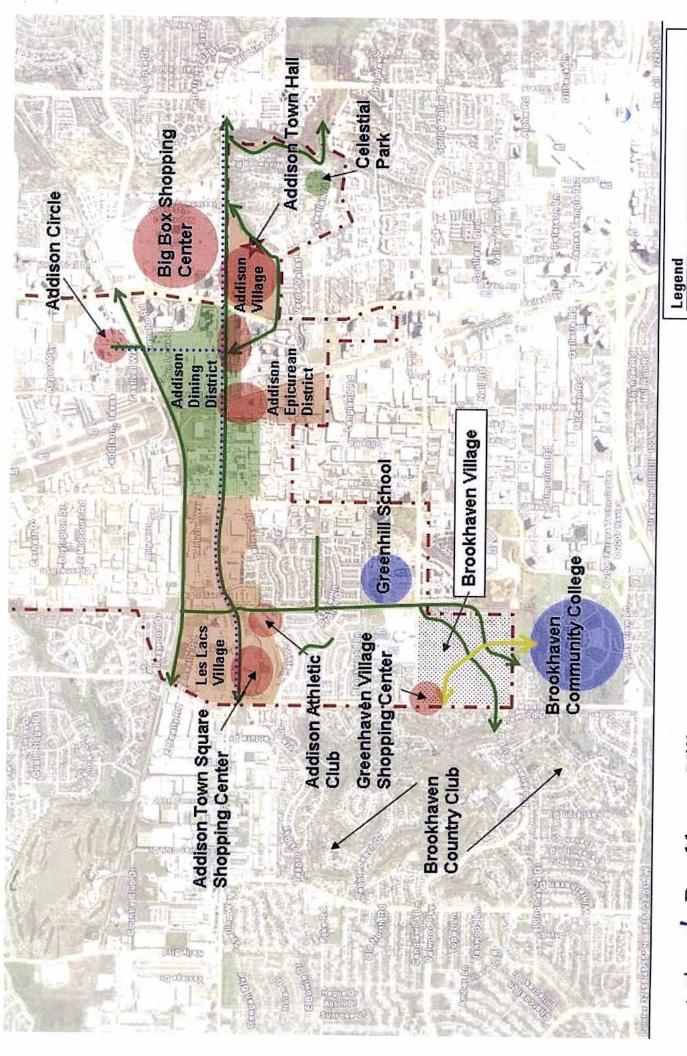
Vancouver



Calgary



Mison! Brookhaven Village CONCEPT



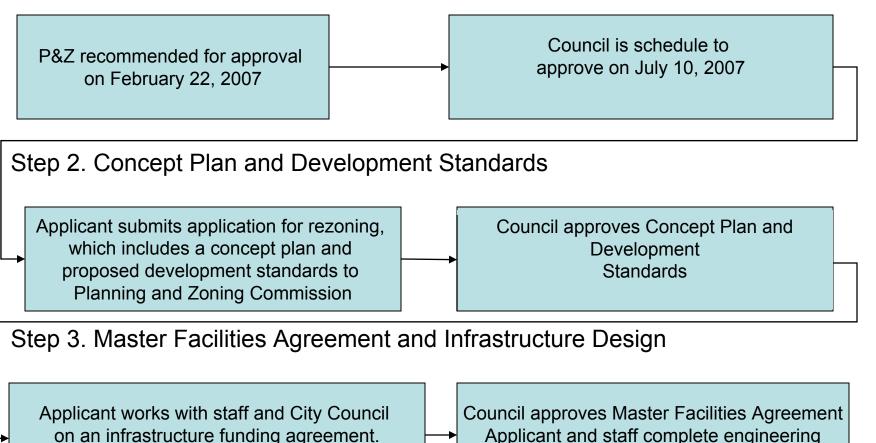
Trails Schools Possible Schools Transit New Road

Brookhaven Village CONNECTIONS DIAGRAM

Process for Redevelopment of the #I Brookhaven Club Neighborhood

Step 1. Comprehensive Plan Goals and Policies

Applicant begins design of first project



plans

Step 4. Final Development Plan Approval

Planning and Zoning Commission Council approves development plans reviews development plans for for a specific project a specific project, Makes a recommendation Step 5. Preliminary Subdivision and Engineering Approval Applicant submits preliminary Council approves preliminary subdivision subdivision plat plat. to Planning and Zoning Commission. Staff approves preliminary engineering Applicant prepares preliminary plans engineering plans Step 6. Final Subdivision and Engineering Approval Applicant submits final subdivision plat Council approves Final Plat. To Planning and Zoning Commission. Staff approves final engineering plans and Applicant prepares final engineering plans. Issues construction permits

Step 7. Construction begins on a project

Applicant begins construction on first project.
Staff begins construction on infrastructure.
to go with first project.

Staff completes first project.
Staff completes first infrastructure.
Residents begin moving in.

Step 8. For next project, start process again at Step 4.

Council Agenda Item: #R5

SUMMARY: Discussion and consideration of approval of an Economic Development

Program Grant Agreement with Authentix, Inc.

FINANCIAL IMPACT: Contingent on the matters set forth in the Agreement, Program Grant

funds will be paid to Authentix, Inc. over a 10 year period and in three installments. The total amount of funds to be paid will not exceed 10% of the amount of funds applied for and received by Authentix in its the Texas Enterprise Fund application, with the maximum amount to be paid not to exceed \$120,000. Each installment will be equal to one-third of the funds received by Authentix from the Texas Enterprise

Fund.

BACKGROUND Authentix, Inc. is relocating to 4355 Excel Parkway, Suite 100 in the

Town. Approval for the operation of its business was considered by the City Council at the July 26 Council meeting. The proposed agreement provides generally for the payment to Authentix by the City, as an economic development incentive to promote local economic development and to stimulate business and commercial activity pursuant to Chapter 380 of the Texas Local Government Code, of an amount equal to 10% of funds received by Authentix from the State pursuant to Authentix's application for a grant from the Texas Enterprise Fund (with the maximum payment not exceeding \$120,000). Payment will be made in three equal installments (each 1/3 of 10% of the amount receive by Authentix from the Texas Enterprise Fund). To receive the payments, Authentix must satisfy certain conditions as set forth in the

Agreement.

RECOMMENDATION: Staff recommends approval

STATE OF TEXAS	§	WD 5 0
	§	#R5-2
COUNTY OF DALLAS	§	

ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT

This Economic Development Program Grant Agreement ("<u>Agreement</u>") is made and entered into by and between AUTHENTIX, INC. ("<u>Authentix</u>"), a ______ corporation, and the TOWN OF ADDISON, TEXAS ("<u>Addison</u>" or the "<u>City</u>"), a Texas home rule municipality, for the purposes and consideration stated below (Authentix and the City are sometimes referred to herein together as the "<u>parties</u>" and individually as a "<u>party</u>").

Recitals:

- 1. Authentix is the tenant of or anticipates that it will become the tenant of the Property as defined herein. The term or anticipated term of the lease pursuant to which Authentix will occupy the Property (as defined herein) is at least ten (10) years, commencing August 1, 2007.
- 2. There currently exists on the Property a building (the "<u>Building</u>"), a portion of which (which portion is identified herein as the "<u>Premises</u>") Authentix intends to remodel, expand and renovate for the purpose of operating a nanotechnology/authentication business (as more fully described in <u>Exhibit C</u> attached hereto and incorporated herein) (the "<u>Business</u>"), which Premises as remodeled and renovated (and in which Authentix will operate the Business) will contain approximately 24,000 square feet of floor space.
- 3. Authentix anticipates that during the Term of this Agreement it will employ at the Premises in connection with the Business a certain number of employees as set forth in Exhibit D attached hereto and incorporated herein.
- 4. In connection with its move, relocation, and proposed improvements to the Premises and the operation of the Business at the Building, Authentix has filed an application with the Texas Enterprise Fund established pursuant to Section 481.078, Tex. Gov. Code (the "Texas Enterprise Fund") seeking an economic development grant from the State (the "State Grant") in the amount of One Million Two Hundred Thousand and No/100 Dollars (\$1,200,000.00) (a true and correct copy of the said application is attached hereto as Exhibit F and incorporated herein (the "Texas Enterprise Fund Application")). Authentix has also advised the City that a contributing factor that would induce Authentix to remodel and renovate the Premises for the purposes of operating the Business on the Property would be an agreement by the City to provide an economic development grant to the Company to, among other things, defray a portion of the cost of such remodeling and renovation.
- 5. The City is authorized by Section 380.001, Tex. Loc. Gov. Code, and by Article III, Section 52-a of the Texas Constitution, to establish and provide for the administration of programs for making economic development grants of public money to promote local economic development and to stimulate business and commercial activity in the City. This Agreement constitutes such a program for promoting economic development within the City, and the City has adopted programs

for promoting economic development, and this Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs.

6. The City has determined that making an economic development grant to Authentix in accordance with this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants, and will promote local economic development and stimulate business and commercial activity within the City.

NOW THEREFORE, for and in consideration of the foregoing, and on the terms and conditions hereinafter set forth, the Town of Addison, Texas and Authentix do hereby agree as follows:

Section 1. Authorization.

This Agreement is made pursuant to the economic development programs provisions of Tex.. Local Government Code, Chapter 380 (the "Act"), as authorized by Article III, Section 52-a of the Texas Constitution, to promote local economic development and to stimulate business and commercial activity in the Town of Addison.

Section 2. Definitions.

"Building" means the building located on the Property and in which the Premises are located. The location of the Building on the Property, and the location of the Premises within the Building, are depicted on the attached Exhibit A.

"Business days" means non-holiday weekdays, thus excluding Saturdays, Sundays and holidays.

"Commencement of Construction" means that (i) the plans for construction of the Improvements have been prepared and all approvals thereof required by applicable governmental authorities have been obtained; and (ii) all necessary permits for construction of the Improvements pursuant to the respective plans therefore have been issued by all applicable governmental authorities.

"Completion of Construction" shall mean that (i) the Improvements have been substantially completed, (ii) a certificate of substantial completion has been issued by the general contractor(s) and architect(s) for the Improvements, and a copy of such certificate has been delivered to the City, (iii) a final, permanent certificate(s) of occupancy for the Improvements has been issued by the City, and (iv) the Premises are fully operational and open for business.

"Employment Positions" shall mean the total non-temporary full-time employment positions located at the Premises and which positions are directly related to the Business. Two (2) or more part-time employees each totaling thirty (30) hours or more per week may be substituted for one (1) full-time employment position.

"<u>Holidays</u>" means New Year's Day, Easter Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

"Improvements" means renovations to the Premises for use by Authentix to conduct the Business, which Improvements are generally described in Exhibit B attached hereto and incorporated herein and which will be more fully described in the submittals filed or to be filed with the City in order to obtain a building permit(s) from time to time during the Term of this Agreement.

"Include(s)" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

"<u>Premises</u>" means the premises located in the Building and containing at least 24,000 square feet of floor space (and generally described as Suite 100 within the Building). The location of the Premises within the Building is depicted on the attached <u>Exhibit A</u>.

"Program" means the payment of three economic development grant installments pursuant to the terms of this Agreement and approved by the City Council pursuant to the Act.

"Program Grant" means the grant in amounts set forth in Section 4 of this Agreement to be paid by the City to Authentix in three installments during the Term of this Agreement.

"Property" means that certain tract of land located within the municipal limits of the City at 4355 Excel Parkway Addison, Texas 75001, together with all improvements located thereon. A more detailed description of the Property, and a depiction of the Property (showing the boundaries thereof and all improvements located thereon, including the Building) is attached hereto and incorporated herein as Exhibit A.

"<u>Tangible Personal Property</u>" shall have the same meaning assigned by Tax Code, Section 1.04 and shall mean all tangible personal property, equipment (including without limitation, computers), fixtures, and machinery owned or leased by the Company and located at the Premises on January 1 of each applicable tax year.

Section 3. Term.

This Agreement shall be effective as of the date of execution by both parties, and, subject to the earlier termination of this Agreement in accordance with terms of this Agreement, this Agreement will terminate 120 months following the First Installment Due Date (as defined in Section 4(a), below) (the "Term").

Section 4. Program Grant.

- A. Maximum Amount of Program Grant.
- 1. The maximum amount of the Program Grant (to be paid in installments as set forth below) shall be an amount equal to ten percent (10%) of any grant funds awarded by the State of Texas to Authentix pursuant to the Texas Enterprise Fund Application submitted to the State by

Authentix (a true and correct copy of which Application is attached hereto as Exhibit F) and actually paid to and received by Authentix (the "State Grant Funds"); provided, however, that the amount of the Program Grant shall not in any event exceed One Hundred Twenty Thousand and No/100 Dollars (\$120,000.00).

- 2. Upon the award (if any) by the State of Texas of the State Grant to Authentix, Authentix shall, within five (5) business days following such award, provide written notice to the City of such award. Such notice shall include, without limitation, a true and correct copy of all information and documentation received by Authentix from the State regarding the award of the State Grant, including the full amount of the State Grant, together with such other information and documentation as the City may request and in such form or format as the City may request.
- 3. Upon the receipt (if any) by Authentix of the State Grant Funds, Authentix shall, within five (5) business days following such receipt, provide written notice to the City of such receipt. Such notice shall include, without limitation, a true and correct copy of all information and documentation received by Authentix from the State regarding the receipt of the State Grant Funds, including the actual amount of the State Grant Funds received, together with such other information and documentation as the City may request and in such form or format as the City may request.
 - 4. Notwithstanding any other provision of this Agreement:
 - (a) the City shall have no obligation to pay the Program Grant or any portion thereof to Authentix until such time as Authentix has complied with the provisions set forth in this subsection A of this Section; and
 - (b) in the event Authentix has not been awarded the State Grant and has not actually received the State Grant funds by December 31, 2007, this Agreement shall automatically terminate and be of no further force or effect, and the parties shall have no further rights, duties, responsibilities, or obligations under or pursuant to this Agreement.
- B. *Program Grant*. In consideration of the performance by Authentix of the obligations listed below as preconditions, City agrees, subject to the terms of this Agreement, to make Program Grant installment payments as follows:
 - 1. The first (initial) Program Grant installment payment in an amount equal to one-third (1/3) of ten percent (10%) of the State Grant Funds (the "First Payment") shall be made to Authentix on or before the thirtieth day following the First Installment Due Date. The First Installment Due Date shall be the first day of the calendar month next following the date on which all of the following preconditions to payment have been timely satisfied (determined as set forth below), and the City's obligation to make the First Payment is and shall be conditioned upon and subject to Authentix's timely compliance with and satisfaction of all of the following preconditions to payment:
 - (a) Authentix shall have, on or before July 1, 2007, executed a lease of the Premises for a term of not less than ten (10) consecutive years (commencing August 1, 2007), which lease shall include the lease of a minimum of 24,000 square feet of

floor area of the Building located on the Property, and Authentix has provided to the City evidence of such executed lease in form and content satisfactory to the City;

- (b) Authentix shall have, on or before January 1, 2008, expended a minimum of One Million Four Hundred Thousand and No/100 Dollars (\$1,400,000.00) in tenant Improvements to the Property, and has provided to the City evidence of such expenditure in form and content satisfactory to the City (including invoices or statements (together with any receipts, documents, or other information in connection therewith) submitted by contractor(s) performing the work which describe the work performed and the cost for such work);
- (c) Authentix shall have, on or before January 1, 2008, expended a minimum of One Million Five Hundred Fifty Thousand and No/100 Dollars (\$1,550,000.00) (the "Personal Property Amount") in Tangible Personal Property (which is subject to ad valorem taxation by the City) to equip and outfit the Building for the purpose of operating the Business and such Tangible Personal Property has been placed and located within the Premises, and Authentix has provided to the City evidence of such expenditure and such placement and location for such purpose in form and content satisfactory to the City;
- (d) Authentix shall have, on or before December 31, 2007, provided to the City payroll reports (in form and content satisfactory to the City) that Authentix's employment at the Property consisted of a minimum of 98 full time or full time equivalent positions (and such payroll reports shall be submitted together with a certification that such minimum employment will continue;
- (e) Authentix has paid City building permit, inspection, and other applicable fees for work associated with the Improvements;
- (f) Commencement of Construction by Authentix on or before August 1, 2007, and Authentix has by that date provided to the City evidence thereof in form and content satisfactory to the City;
- (g) Completion of Construction by Authentix on or before December 31, 2007, and Authentix has by that date provided to the City evidence thereof in form and content satisfactory to the City; and
- (h) The issuance by the City on or before January 31, 2007 of a final, unconditional certificate of occupancy for the Premises, as may be required by the applicable ordinances, codes, standards, rules, and regulations of the City.

Upon the completion of all of the above and foregoing preconditions to payment of the First Payment by the City, Authentix shall promptly give to the City written notification of its determination that all such preconditions have been complied with and satisfied. The City shall, upon its receipt of such notification, review the evidence and any other materials or information submitted to the City by Authentix in connection with the said preconditions to payment. Within fifteen (15) days after its receipt of such notification (together with

evidence and any other materials or information submitted to the City by Authentix), the City shall make its determination as to whether or not Authentix has timely complied with and satisfied all of the preconditions to payment of the First Payment, and shall within such fifteen (15) day period give to Authentix written notice of its determination. If the City determines that Authentix has complied with and satisfied all of the preconditions to payment of the First Payment, the first day of the calendar month next following the date that written notice of such determination is given to Authentix shall be the "First Installment Due Date."

- 2. The second Program Grant installment payment in an amount equal to one-third (1/3) of ten percent (10%) of the State Grant Funds (the "Second Payment") shall be made to Authentix on or before the thirtieth day following the fifth anniversary of the First Installment Due Date (the "Fifth Anniversary") provided that each of the following preconditions to payment have been satisfied, and the City's obligation to make the Second Payment is and shall be conditioned upon and subject to Authentix's timely compliance with and satisfaction of all of the following preconditions to payment:
 - (a) Authentix shall have continuously operated the Business in the entire Premises during each calendar quarter since the date of the First Payment, and Authentix shall have certified such operation to the City in writing (to include a certification that Authentix intends to and will be operating the same as of the Fifth Anniversary), which certification shall be by affidavit sworn to by an authorized representative of Authentix, in form and content satisfactory to the City (such certification shall be submitted not more than 45 days prior to the Fifth Anniversary);
 - (b) Authentix shall, not more than 45 days prior to the Fifth Anniversary, have provided to the City payroll reports (in form and content satisfactory to the City) for the Business generated on a quarterly basis (or on a less frequent basis if requested by the City) and evidencing that within ____ months following the First Installment Due Date and continuously thereafter through the date of the provision of such payroll reports the number of Authentix Employment Positions at the Premises consisted of a minimum of 220 Employment Positions (and such payroll reports shall be submitted together with a certification that such minimum employment will continue as of the date of the Fifth Anniversary);
 - (c) Authentix shall have provided to the City a true and correct copy of the personal property rendition statement filed by Authentix with the Dallas Central Appraisal District during the calendar year in which the Fifth Anniversary occurs and each of the four preceding calendar years (the form of which statement shall be that provided by the Dallas Central Appraisal District, the current form of which is attached hereto as Exhibit E), showing that Tangible Personal Property subject to ad valorem taxation by the City has been located upon the Premises for each such year in at least the Personal Property Amount; and
 - (d) Authentix shall not have an uncured breach or default of this Agreement.

- 3. The third (final) Program Grant installment payment in an amount equal to one-third (1/3) of ten percent (10%) of the State Grant Funds (the "Third Payment") shall be made to Authentix on or before the thirtieth day following the tenth anniversary of the First Installment Due Date (the "Tenth Anniversary") (which payment obligation shall survive the expiration of the Term) provided that each of the following preconditions to payment have been satisfied, and the City's obligation to make the Third Payment is and shall be conditioned upon and subject to Authentix's timely compliance with and satisfaction of all of the following preconditions to payment:
 - (a) Authentix shall have continuously operated the Business in the entire Premises during each calendar quarter since the date the Second Payment is made by the City, and Authentix shall have certified such operation to the City in writing (to include a certification that Authentix intends to and will be operating the same as of the Tenth Anniversary), which certification shall be by affidavit sworn to by an authorized representative of Authentix, in form and content satisfactory to the City (such certification shall be submitted not more than 45 days prior to the Tenth Anniversary);
 - (b) Authentix shall, not more than 45 days prior to the Tenth Anniversary, have provided to the City payroll reports (in form and content satisfactory to the City) for the Business to the City generated on a quarterly basis (or on a less frequent basis if requested by the City) and evidencing that within ____ months following the Second Installment Due Date and continuously thereafter through the date of the provision of such payroll reports the number of Authentix Employment Positions at the Premises consisted of a minimum of 364 Employment Positions (and such payroll reports shall be submitted together with a certification that such minimum employment will continue as of the date of the Tenth Anniversary);
 - (c) Authentix shall have provided to the City a true and correct copy of the personal property rendition statement filed by Authentix with the Dallas Central Appraisal District during the calendar year in which the Tenth Anniversary occurs and each of the four preceding calendar years (the form of which statement shall be that provided by the Dallas Central Appraisal District, the current form of which is attached hereto as Exhibit E), showing that Tangible Personal Property subject to ad valorem taxation by the City has been located upon the Premises for each such year in at least the Personal Property Amount; and
 - (d) Authentix shall not have an uncured breach or default of this Agreement.

Notwithstanding anything contained herein to the contrary or any other provision of this Agreement, the Program Grant installment payments shall not be due and payable, and this Agreement will automatically terminate and be of no further force or effect (and the parties shall have no further rights, duties, responsibilities, or obligations under or pursuant to this Agreement) if: (a) Commencement of Construction has not begun by September 1, 2007; or if (b) Authentix fails to timely comply with and satisfy any of the preconditions to the First Payment as set forth in Section 4(a), above.

Section 5. Reports; Reimbursement.

- A. Each year ("Year") during the term of this Agreement (the first such year beginning on the First Installment Due Date and ending one (1) year thereafter), Authentix shall file with the City a written report or certification (the "Annual Certification") regarding the following (together, the "Annual Requirements") for each Year:
 - 1. whether or not Authentix continuously operated the Business in the entire Premises; and
 - 2. whether or not Authentix employed at all times the number of Employment Positions at the Premises as prescribed in the attached Exhibit D.

The Annual Certification shall (w) be in a form satisfactory to the City, (x) include or be filed together with, upon the City's request, records and information in support of the report or certification and the representations made therein (and shall include, among other things, a true and correct copy of the personal property rendition statement filed by Authentix with the Dallas Central Appraisal District for the then applicable Year), (y) be sworn to by an authorized representative of Authentix, and (z) be filed with the City not later than the thirtieth (30th) day following the end of the then applicable Year (the "Certification Filing Period"). The obligation to file the Annual Certification for the tenth Year of the Term shall survive the expiration of this Agreement.

- B. In the event an Annual Certification shows or establishes that Authentix failed during the applicable Year to fully comply with any one of the Annual Requirements, or in the event Authentix does not in any Year file a complete Annual Certification as described in subsection (a) of this Section within the Certification Filing Period, the City shall upon the expiration of the Certification Filing Period notify the Authentix of such failure (the "City Notice"). Authentix shall upon its receipt of such notification promptly reimburse to the City a ratable portion of the First Payment, the Second Payment, or the Third Payment, as the case may be, in accordance with the following:
 - 1. if the City Notice pertains to any Year during the first five (5) Year period of this Agreement, Authentix shall reimburse to the City the sum of one-fifth of the First Payment; and
 - 2. if the City Notice pertains to any Year during the second five (5) Year period of this Agreement, Authentix shall reimburse to the City the sum of one-fifth of the Second Payment.
- C. In the event Authentix suffers an Event of Bankruptcy or Insolvency (as hereinafter defined), Authentix shall promptly reimburse to the City a sum equal to the following:
 - 1. if the Event of Bankruptcy or Insolvency occurs during the first five (5) Year period of this Agreement, a sum equal to one-fifth of the First Payment times the number of Years remaining (including the year in which the Event of Bankruptcy or Insolvency occurs) in the first five (5) year period following the Event of Bankruptcy or Insolvency; or

2. if the Event of Bankruptcy or Insolvency occurs during the second five (5) year period of this Agreement, a sum equal to one-fifth of the First Payment times the number of Years remaining (including the Year in which the Event of Bankruptcy or Insolvency occurs) in the first five (5) year period following the Event of Bankruptcy or Insolvency.

For purposes hereof, "Event of Bankruptcy or Insolvency" means (i) the liquidation, dissolution, or termination of Authentix's existence as a going business, (ii) insolvency, (iii) appointment of a receiver for any part of Authentix's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, (iv) any general assignment for the benefit of creditors, or (v) the commencement of any proceeding under any bankruptcy or insolvency laws by or against Authentix and such proceeding is not dismissed within ninety (90) days after the filing thereof

D. The reimbursement obligation pertaining to the tenth year of the Term shall survive the expiration of this Agreement.

Section 6. Additional Authentix Obligations.

Authentix further agrees that Authentix will during the Term of this Agreement make good faith efforts to use, and to encourage the use by Authentix's guests, vendors, and affiliates of, Addison hotels, restaurants and the Addison Conference Centre for business purposes and events related to or in connection with the Business. Authentix agrees that it will, from time to time and as may be requested by the City (but in any event no more than once each calendar quarter), provide the City with a summary of such use by Authentix.

Section 7. Additional Town Obligations.

Town further agrees that Town will:

- A. Support (as determined appropriate by the City and without having to spend any City funds) the nomination of the nanotechnology/authentication company for the Enterprise Project designation by the state.
- B. Assist (as determined appropriate by the City and without having to spend any City funds) Authentix in obtaining grants and other incentives through state and federal agencies.
- C Support (as determined appropriate by the City and without having to spend any City funds) Authentix in an application for funding from the Texas Skills Development Fund.
 - D. Process all permits for Improvements on a timely basis.

Section 8. Termination.

This Agreement shall terminate without notice or demand upon the occurrence of any one of the following:

A. the execution by both parties of a written agreement terminating this Agreement;

- B. the expiration of the Term;
- C. at the option of either party in the event the other party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof; or
 - D. at the City's option, if Authentix suffers an Event of Bankruptcy or Insolvency.

If the City terminates this Agreement pursuant to subsection C. of this Section, Authentix shall be obligated to promptly repay to the City a sum equal to one-fifth of the First Payment or the Second Payment, as the case may be, times the number of Years remaining (including the year in which the termination occurs) in the first or second five (5) year period following such termination.

Section 9. Representations by the Town.

The City represents that:

- A. The City is a home rule Texas municipal corporation and to the best of its actual knowledge has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations hereunder; and
- B. The City knows of no litigation, proceedings, initiative, referendum, investigation or threat of any of the same contesting the powers of the City or its officials with respect to this Agreement that has not been disclosed in writing to Authentix.

Section 10. Representations and Warranties by Authentix.

Authentix represents that:

- A. Authentix is a corporation duly organized and validly existing under the laws of the State of _____ and is, or will prior to the effective date of this Agreement, be qualified to do business in the State of Texas; has the legal capacity and the authority to enter into and perform its obligations under this Agreement;
- B. The execution and delivery of this Agreement and the performance and observance of its terms, conditions and obligations have been duly and validly authorized by all necessary action on its part to make this Agreement; and
- C. Authentix has the necessary legal ability to perform its obligations under this Agreement and has the necessary financial ability, through borrowing or otherwise, to construct the Improvements. This Agreement constitutes a valid and binding obligation of Authentix, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

Section 11. Changes and Amendments.

Except as specifically provided otherwise in this Agreement, any alterations or deletions to the terms of this Agreement shall be by written amendment executed by both parties to this Agreement.

Section 12. Successors and Assigns; No Third Party Beneficiaries.

Authentix may not assign, sell, pledge, transfer, or otherwise convey (any of the foregoing, "Convey", and the occurrence of any of the foregoing, a "Conveyance") in any manner or form whatsoever (including by or through a merger or consolidation of Authentix into another entity, by operation of law, or otherwise) all or any part of its rights and obligations hereunder without the prior written approval of the City, which may be withheld in the City's sole discretion.

Any Conveyance of any kind or by any method without the City's prior written consent shall be null and void *ab initio*.

Any Conveyance to which the City gives it prior written approval shall be expressly subject to all of the terms, conditions and provisions of this Agreement. In the event of any permitted Conveyance, Authentix shall obtain a written agreement (the "Assumption Agreement") from each such assignee, transferee, buyer, pledgee, or other person or entity to whom this Agreement is otherwise conveyed whereby each such assignee, transferee, buyer, pledgee, or other person or entity to whom this Agreement is otherwise conveyed agrees to be bound by the terms and provisions of this Agreement.

This Agreement shall be binding on and inure to the benefit of the parties, their respective permitted successors and permitted assigns. This Agreement and all of its provisions are solely for the benefit of the parties hereto and do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

Section 13. Notice.

Any notice and/or statement required or permitted to be given or delivered shall be deemed given or delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing;

If to the Authentix:

AUTHENTIX, INC: Craig Stamm 4355 Excel Parkway, Suite 100 Addison, Texas 75001 Phone: (469) 213-1444

Fax: (469) 737-4405

If to the Town:

Ron Whitehead Mario Canizares Office of the City Manager 5300 Beltline Road Dallas, Texas 75254-7606 Phone (972) 450-7000 Fax: (972) 450-7043

And to:

John Hill Cowles & Thompson 901 Main Street, Suite 4000 Dallas, Texas 75202 Phone: (214) 672-2000

Fax: (214) 672-2370

Section 14. Venue.

The obligations of the parties to this Agreement are performable in Dallas County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Dallas, Texas.

Section 16. Applicable Laws.

This Agreement is made subject to the provisions of the Charter and ordinances of the City, as amended, and all applicable State and federal laws, rules, and regulations.

Section 17. Governing Law.

The parties hereto agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 18. Legal Construction/Partial Invalidity of Agreement.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

Section 19. Miscellaneous.

A. The Recitals to this Agreement are true and correct and are incorporated herein and made a part hereof for all purposes.

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law statute, ordinance, or otherwise. The failure by either party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies either party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein. All exhibits to this Agreement are incorporated herein by reference for all purposes C. wherever reference is made to the same. Any of the representations, covenants, and obligations of the parties hereto, as well as D. any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration. Ε. It is acknowledged and agreed by the parties that the terms hereof do not, are not intended to, and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the parties. The undersigned officers and/or agents of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the parties hereto. **EXECUTED** and effective as of the _____ day of ______, 2007, by the City, signing by and through its City Manager, duly authorized to execute same by action of the Town Council, and by Authentix, acting through its duly authorized officials. TOWN OF ADDISON, TEXAS **AUTHENTIX, INC.** By: Ron Whitehead, City Manager Typed/printed name: ATTEST:

Mario Canizares, City Secretary

EXHIBIT A

[Description of the Property; show location of Building on the Property, and location of the Premises within the Building]

EXHIBIT B

[Description of the Improvements]

EXHIBIT C

[Description of the Business, including its purpose a	nd activities; referenced Addison Ordinance
No. describit	ng the use]

EXHIBIT D

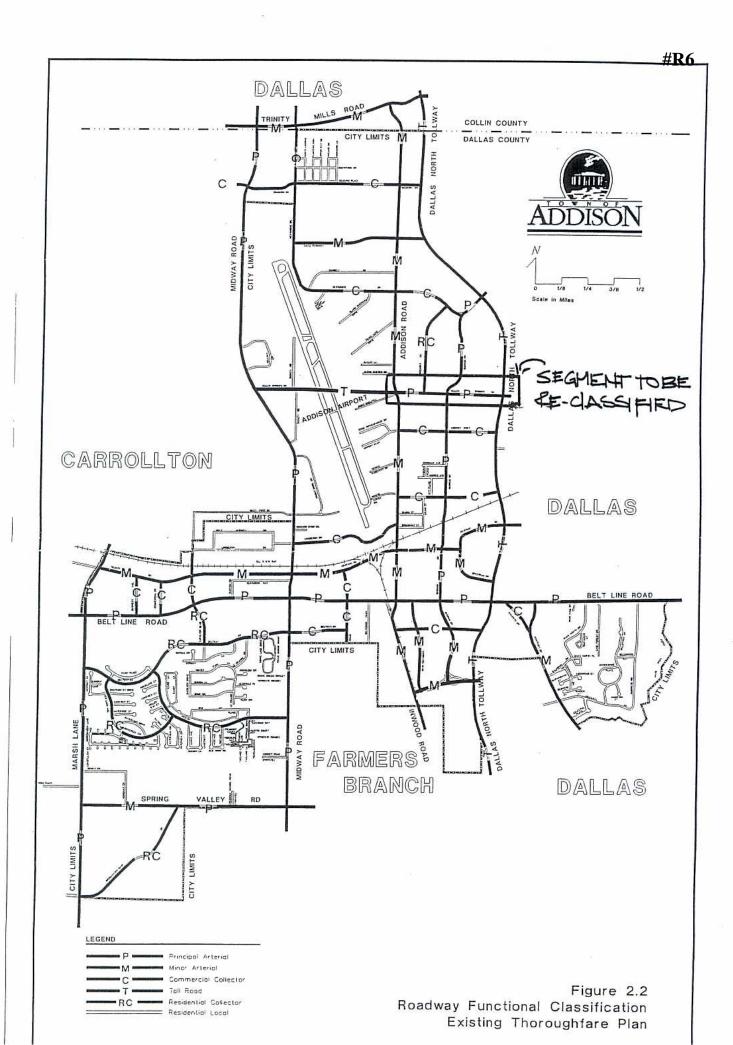
[Number of Employees Employed During the Term]

EXHIBIT E

[Dallas Central Appraisal District Personal Property Rendition Form]

EXHIBIT F

[Authentix Application to Texas Enterprise Fund]





Application to the Planning & Zoning Commission For Amendment to the Transportation Plan

The following information must be submitted by the established deadline dates for consideration:

	 a. The proposed development; b. 100 year floodplain (if applicable) General location and address of proposed development; Total acres of the development; A detailed letter of purpose outlining the reasons for the proposed amendment and traffic impacts; an 				
	This application completed in full.				
ΑF	PLICANT INFORMATION:				
Na	me: TCI Woodmont Group XIII, L.P.				
Str	eet Address: c/o Icon Partners, 5050 Spring	g Valley, Suite 2	00		
Cit	y: Dallas	State: TX	Zip: 75244		
Ph	one Number: 972.367.4800	Fax Number: 9	72.367.4801		
Со	ntact: Jim Duffy, Sr. VP	Email: jduffy@	iconpartners.com		
RE	QUESTED THOROUGHFARE TO BE	AMENDED:			
Str	eet Name: Keller Springs Road				
Cu	rrent Classification: Principal Collector	Proposed Clas	sification: Commercial Collector		
Lir	nits: Addison Road to Dallas North Tollway	y			
Ex	sting Length: N/A	Proposed Len	gth: N/A		
	e Applicant has prepared this application as eto are true and correct.		the facts stated within and exhibits attached		

Date

Signature and Title



June 21, 2007

Attachment to:

Application to the Planning & Zoning Commission For Amendment to the Transportation Plan

General Location and address of proposed development:

4900 Keller Springs Road; Southeast corner of Addison Road and Keller Springs Road

Total Acres of the development:

7.37 acres

A detailed letter of purpose outlining the reasons for the proposed amendment and traffic impacts:

The current transportation plan calls for the ultimate widening of Keller Springs Road to a six lane divided roadway. The proposed development does not leave enough future right of way to widen the existing road to six lanes equally on both sides of Keller Springs Road. Right of way has been anticipated to expand Keller Springs to a four lane divided roadway should that need ever arise.

The applicant does not anticipate the requested modification will have any negative impact on future traffic flow in the area.

PUBLIC WORKS DEPARTMENT Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972) 450-2837 16801 Westgrove

Memorandum

To:

Carmen Moran

CC:

Nancy Cline

From:

Clay Barnett

Date:

6/22/2007

Re:

Amendment to the Transportation Plan

Staff has reviewed the application on file from TCI Woodmont Group XIII, L.P. Following is a summary of the results of the review:

The "Feasibility Study for the Addison Airport Toll Tunnel," which was prepared in December 1985, projected traffic volumes for the Addison Airport Toll Tunnel to be in excess of 40,000 vehicles per day. The "Transportation Plan," which was prepared in June 1998, was based on this information. With these projected traffic volumes, Keller Springs was classified as a principal arterial. A principal arterial is comprised of a six-lane median divided section. The Addison Airport Toll Tunnel was completed in February 1999 and currently has two lanes of traffic. With the projected volumes, it was anticipated that an additional tunnel would be warranted bringing the total section to four lanes. Within a year of completion of the Addison Airport Toll Tunnel in February 1999, it generated roughly 7,000 vehicles per day. This continued to increase to roughly 10,000 vehicles per day until July 2001 when the President George Bush Turnpike was completed. At that time, the amount of traffic using the Addison Airport Toll Tunnel quickly decreased to roughly 8,000 vehicles per day. Traffic counts completed in November 2006 reflect that roughly 9,800 vehicles per day utilize the Addison Airport Toll Tunnel. This trend is expected to continue for the foreseeable future and does not warrant the construction of the additional tunnel in the foreseeable future nor does it require that Keller Springs Road be classified as a principal arterial at this time.

In addition, a minor arterial has four lanes of traffic with a divided median section. If and when the additional tunnel for the Addison Airport Toll Tunnel is completed, it will also have a total of four lanes. A minor arterial should provide a smooth flow of traffic along Keller Springs Road within the limits requested in the application.

Therefore, staff is in support of the Application to Amend the Transportation Plan.

AMENDMENT TO TRANSPORTATION PLAN June 29, 2007

COMMISSION FINDINGS:

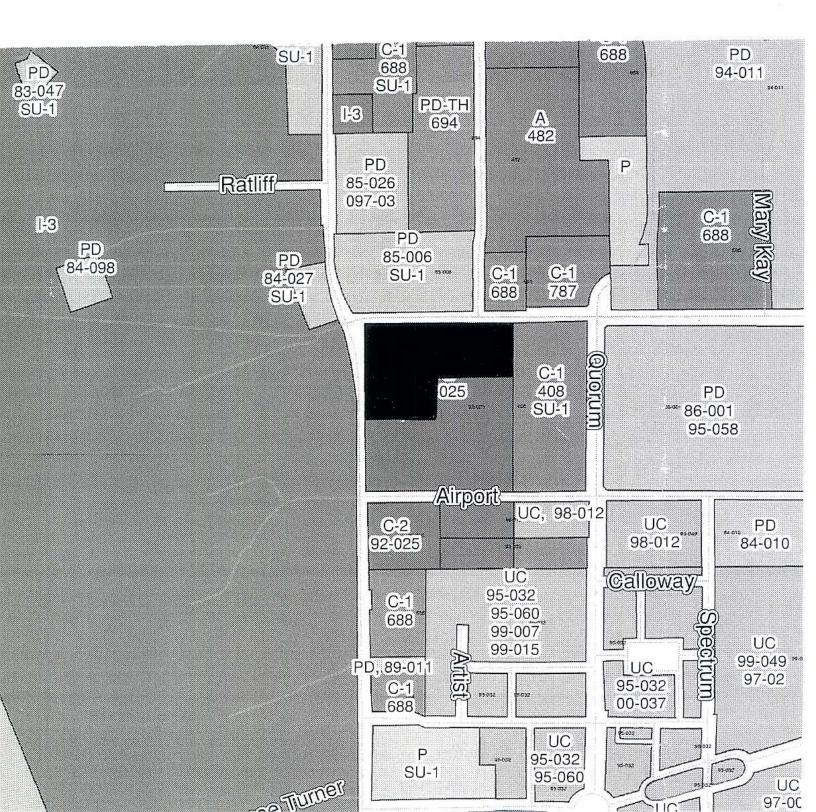
The Addison Planning and Zoning Commission, voting in regular session on June 28, 2007, voted to recommend approval of the proposed amendment to the Town's Transportation Plan, on application from TCI Woodmont Group XIII, L.P.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

FINAL PLAT/Keller Springs Lofts Addition, Lot 1 and Lot 2, Block A

<u>FINAL PLAT/Keller Springs Lofts Addition, Lot 1 and Lot 2, Block A.</u> Requesting approval of a preliminary plat for two lots totaling 7.370 acres, located at the southeast corner of Addison Road and Keller Springs Road, on application from Woodmont TCI Group VIII, LP, represented by Mr. Jeremy Smith of Huitt-Zollars, Inc.





Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

June 21, 2007

STAFF REPORT

RE:

FINAL PLAT/Keller

Springs Lofts Addition, Lot 1 and

Lot 2, Block A

LOCATION:

Two lots totaling 7.370 acres, located at the southeast corner of Addison Road and Keller Springs

Road

REQUEST:

Approval of a Final Plat

APPLICANT:

Icon Partners, formerly

Woodmont TCI Group VIII, LP

DISCUSSION:

<u>Background</u>. This property was zoned from Commercial-2 to a Planned Development district through Ordinance 006-047, approved by the Addison City Council on October 10, 2006. The development plans call for 362 multi-family units in two buildings, with some support retail uses in the ground floor of one building.

This plat is different than most the Commission and Council approve in that it has two separate agreements that will be filed along with it. One is the declaration of storm water detention area. That agreement was a part of the preliminary plat. The second is the Easement Relocation Agreement. This agreement provides that when Addison Road is widened, the existing power poles, which are now in an easement, can be relocated to the east, into a new easement. However, the owner wants to retain the right to use the future easement for parking and landscaping. The easement relocation agreement was negotiated among the owner, the City, ONCOR, and AT&T after the preliminary plat was approved. It will also be referenced on the face of the plat.

The preliminary plat was approved by the Commission in March of 2007 and the Council in April of 2007. This is a complicated site due to the electrical easements and street dedication requirements associated with it.

During the preliminary plat discussions, the staff was recommending a dedication be provided for the widening of Keller Springs Road to six lanes. However, prior to the approval of the preliminary plat, the staff agreed to amend the thoroughfare plan to change the classification of Keller Springs and reduce the right-of-way requirement to a 4-lane divided street. The Thoroughfare plan amendment item precedes this item on the agenda.

<u>Public Works Review</u>. The Public Works staff has reviewed the proposed plat, and it has the following comments:

- 1. The plat shall be titled "final plat" prior to submitting for signature.
- 2. The volume and page of the "Declaration of Storm Water Detention Area" shall be placed on the face of the plat prior to submitting for signatures.
- 3. Revise the following easement along Addison Road: "10' EASEMENT FOR FUTURE RELOCATION OF TXU & AT&T LINES, IN THE EVENT OF ADDISON ROAD WIDENING" to read "REFER TO EASEMENT RELOCATION AGREEMENT." The volume and page of which shall be placed on the face of the plat prior to submitting for signatures.
- 4. In the Transportation Plan, Keller Springs Road is designated as a principal arterial. The Transportation Plan requires that sufficient right-of-way for Keller Springs Road be dedicated for a principal arterial. The plat submitted for Keller Springs Lofts Addition fails to dedicate the additional eleven feet (11') of right-of-way required to build Keller Springs Road as a principal arterial. An application is on file from the applicant to amend the Transportation Plan. Plat approval should be conditional upon approval of the amendment.
- 5. It should be noted that the Town of Addison intends to improve Keller Springs Road and Addison Road in the future. None of the driveways shown on the Development Plans for Keller Springs Lofts meet the required minimum separation to receive a median opening in the future. As a result, the Town of Addison reserves the right to limit access to right in/right out when Addison Road or Keller Springs Road are improved.

RECOMMENDATION:

Staff recommends approval of the final plat subject to the conditions listed above.

Respectfully submitted,

Carmen Moran

Director of Development Services



PUBLIC WORKS DEPARTMENT

Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972) 450-2837

16801 Westgrove

Memorandum

To:

Carmen Moran

CC:

Nancy Cline

From:

Clay Barnett

Date:

6/22/2007

Re:

Final Plat Review for Keller Spring Lofts Addition

1. The plat shall be titled "final plat" prior to submitting for signature.

- 2. The volume and page of the "Declaration of Storm Water Detention Area" shall be placed on the face of the plat prior to submitting for signatures.
- 3. Revise the following easement along Addison Road: "10' EASEMENT FOR FUTURE RELOCATION OF TXU & AT&T LINES, IN THE EVENT OF ADDISON ROAD WIDENING" to read "REFER TO EASEMENT RELOCATION AGREEMENT." The volume and page of which shall be placed on the face of the plat prior to submitting for signatures.
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- 5. It should be noted that the Town of Addison intends to improve Keller Springs Road and Addison Road in the future. None of the driveways shown on the Development Plans for Keller Springs Lofts meet the required minimum separation to receive a median opening in the future. As a result, the Town of Addison reserves the right to limit access to right in/right out when Addison Road or Keller Springs Road are improved.

COMMISSION FINDINGS:

The Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the final plat on application from WoodmontTCl Group VIII, LP, subject to the following conditions:

- 1. The plat shall be titled "final plat" prior to submitting for signature.
- 2. The volume and page of the "Declaration of Storm Water Detention Area" shall be placed on the face of the plat prior to submitting for signatures.
- 3. Revise the following easement along Addison Road: "10' EASEMENT FOR FUTURE RELOCATION OF TXU & AT&T LINES, IN THE EVENT OF ADDISON ROAD WIDENING" to read "REFER TO EASEMENT RELOCATION AGREEMENT." The volume and page of which shall be placed on the face of the plat prior to submitting for signatures.
- 4. In the Transportation Plan, Keller Springs Road is designated as a principal arterial. The Transportation Plan requires that sufficient right-of-way for Keller Springs Road be dedicated for a principal arterial. The plat submitted for Keller Springs Lofts Addition fails to dedicate the additional eleven feet (11') of right-of-way required to build Keller Springs Road as a principal arterial. An application is on file from the applicant to amend the Transportation Plan. Plat approval should be conditional upon approval of the amendment.
- 5. It should be noted that the Town of Addison intends to improve Keller Springs Road and Addison Road in the future. None of the driveways shown on the Development Plans for Keller Springs Lofts meet the required minimum separation to receive a median opening in the future. As a result, the Town of Addison reserves the right to limit access to right in/right out when Addison Road or Keller Springs Road are improved.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

STATE OF TEXAS	10
COUNTY OF DALLAS	

DECLARATION OF STORM WATER DETENTION AREA

T	his Declaration of Storm Water Detention As	rea ("Declaration")	is made as of the
day of	, 2007 by	, a	[type of entity and state
of formati	on] ("Declarant").		

Recitals:

- 1. Declarant is the sole owner of certain real property located generally at the southwest corner of the intersection of Addison Road and Keller Springs Road in the Town of Addison, Texas (the "City") and more specifically described in Exhibit A attached hereto and incorporated herein (the "Property").
- 2. Declarant has submitted a proposed final plat to the City, a true a correct copy of which is attached hereto as <u>Exhibit B</u>. Upon the final review and approval by the City and the execution of the same as required and appropriate, the final plat as approved and executed shall be substituted for the proposed final plat attached hereto and shall be Exhibit B to this Declaration (the "Final Plat").
- 2. Declarant desires to create and establish a storm water detention area (as shown on the Final Plat) for the benefit of the owners of the Property (together with their respective successors and assigns, the "Owners" and individually an "Owner") in accordance with and subject to the terms and conditions hereinafter set forth.
- **NOW, THEREFORE**, Declarant hereby declares that the Property shall be subject to a storm water detention area as follows:
- Section 1. <u>Incorporation of Recitals</u>. The above and foregoing Recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Storm Water Drainage Area.

- A. Creation. Declarant hereby grants and creates, for the limited purposes and uses set forth herein, a non-exclusive temporary storm water detention area (the "Detention Area") over and across the portions of the Property as shown and described on Exhibit B attached hereto and incorporated herein, for the detention of storm water on the Property.
- B. Covenant Running with the Property. This Declaration, and all of the rights, duties, and obligations set forth herein, is and shall be deemed a covenant running with the land (the Property), and the parties hereto understand and agree that this Declaration shall fully bind and inure to the benefit of Declarant and Owners, future owners and mortgagees of the Property (or any portion thereof), and their respective heirs, personal representatives, successors and assigns, each of whom shall be bound to abide by this Declaration.

- C. Use. The Detention Area shall be interpreted to permit usage thereof in common with others on a non-exclusive basis by (i) the Owners, (ii) successors and assigns of the Owners, and (iii) the tenants and subtenants of the Owners and their respective successors and assigns ((i), (ii), and (iii) together, the "Detention Area Beneficiaries").
- D. No Obstruction; Compliance with Laws. No Owner shall permit any structure located on any portion of the Property owned by or leased by such Owner to obstruct the Detention Area. The construction, reconstruction, maintenance, repair, and use of the Detention Area shall be subject to and comply with the provisions set forth in this Declaration, with the Final Plat, and with the City Charter of the City, all applicable laws, ordinances (including, without limitation, the zoning ordinances of the City), codes, rules, and standards adopted by any governmental entity with jurisdiction over the Property, including the City ("Applicable Law").
- E. *Plans*. Proposed engineering plans for the Detention Area are attached hereto as Exhibit C. In the event of any inconsistency between the proposed plans attached hereto as Exhibit D and the plans finally approved (the "<u>Detention Area Plans</u>"), the plans finally approved shall control and shall be substituted as Exhibit D to this Declaration.
- F. Future Development. Declarant has and reserves the right, subject to Applicable Law, to modify the Detention Area in the event development of the Detention Area, other than as a storm water detention facility and as determined by Declarant, is available. Without limiting the foregoing regarding the application of Applicable Law, Declarant shall, prior to the construction of any such proposed modification or further development of the Detention Area (and as a condition precedent of receiving a building permit from the City for such modification or development), submit to the City, for its review and consideration of approval, all plans as may be required by the City in connection with such modification and development. In connection with such proposed modification or further development and subject to the other provisions of this Declaration, Declarant has and reserves the right to terminate and/or amend the terms and provisions of this Declaration.
- Section 3. <u>Maintenance</u>. Declarant shall at all times repair, reconstruct, and maintain the Detention Area in good condition at its sole cost and expense, including keeping the Detention Area clean and free of debris, silt, growth, vegetation which exceeds a height of twelve inches, weeds, or any other matter which would result in unsanitary conditions or obstruct the flow of water. Neither the City, nor any officer, official, employee, representative, or agent of the City is or shall be liable or responsible for the failure of the Declarant to properly maintain the Detention Area.

Section 4. <u>Enforcement; Third Party Beneficiary</u>.

- A. *Enforcement*. This Declaration is intended to benefit, inures to the benefit of, and is enforceable by (i) the Owners, and by (ii) the City (as a third-party beneficiary hereto) at the City's sole election and in its sole discretion.
 - B. City Enforcement.

- (1)(a) If the Detention Area is at any time being operated or used in violation of, or fails to comply with, this Declaration (e.g., without limitation, if the Detention Area is being modified in a manner that is not consistent with the Detention Area Plans, or is not being maintained in accordance with the terms and provisions of this Declaration) (each such violation or failure being a "Failure"), the Building Official or other appropriate representative of the City may give notice of such Failure (the "Failure Notice") to the Declarant and Owners and a demand that such Failure be corrected and remedied within thirty (30) days (or such longer period as may be included in the Failure Notice) following the date of the receipt of the Failure Notice (the "Cure Period"); provided, however that if the Failure cannot with diligence be cured within the said 30-day (or longer as specified in the Failure Notice) period, if within such 30-day (or longer) period the Declarant and Owners provide the City written notice of the curative measures which they propose to undertake to cure the Failure, and proceed promptly to initiate such measures to cure such Failure, and thereafter prosecute the curing of such Failure with diligence and continuity, the time within which such Failure may be cured shall be extended for such period as may be necessary to complete the curing of such Failure with diligence and continuity, but in any event not to exceed forty-five (45) days following the date of the receipt of the Failure Notice (the "Extended Cure Period").
- (b) If the Failure remains uncured to the City's satisfaction beyond the term of the Cure Period (or Extended Cure Period, if applicable), the City may and is authorized thereafter to withhold any new (i) building permit, (ii) other development permit, or (iii) certificate of occupancy for or related to the Property, until such time as the Failure is cured to the City's satisfaction.
- (2) Further, the City is hereby given the right, and Declarant and Owners acknowledge that the City has the right, at its election and in its sole discretion, to enforce this Declaration by any means whatsoever, including filing an action in a court of competent jurisdiction, at law, in equity, or otherwise, against any person violating or attempting to violate this Declaration, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce this Declaration, Declarant and Owners agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs in connection therewith.
- (3) The City may also and is hereby given the authority to, in its sole discretion and without further or additional notice and without liability to Declarant and Owners (and anyone claiming any ownership, possessory or occupancy right in or to the Property by or through Declarant or Owners), enter upon the Detention Area and to repair and/or maintain the same in the event, after the expiration of the Cure Period (or Extended Cure Period, if applicable) notice, a Failure remains uncured to the City's satisfaction. All costs and expenses of whatever form or nature (including legal fees and expenses) which are incurred by the City in providing such maintenance or repair shall be an obligation of the Declarant and be promptly reimbursed to the City.

C. INDEMNITY; RELEASE.

(1) INDEMNITY. DECLARANT AND OWNERS AGREE TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS

OFFICIALS, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES (TOGETHER, "INDEMNIFIED PERSONS"), FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, CAUSES OF ACTION, LAWSUITS, HARM, LIABILITY, DEMANDS, DAMAGES, PENALTIES, FINES, COSTS, FEES, AND EXPENSES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS FEES) (TOGETHER, "CLAIMS") ARISING OUT OF, RELATED TO, OR IN CONNECTION WITH THIS DECLARATION AND THE CITY'S WITHHOLDING OF ANY BUILDING PERMIT, OTHER DEVELOPMENT PERMIT, OR CERTIFICATE OF OCCUPANCY PURSUANT TO THIS DECLARATION. IT IS FURTHER COVENANTED AND AGREED THAT SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL APPLY EVEN WHERE ANY SUCH CLAIMS ARISES IN ANY PART FROM THE NEGLIGENCE OF THE INDEMNIFIED PERSONS OR ANY OF THEM.

IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT, THAT THE DEFENSE, INDEMNITY, AND HOLD HARMLESS PROVIDED FOR IN THIS SECTION, IS A DEFENSE, INDEMNITY, AND HOLD HARMLESS EXTENDED BY DECLARANT AND OWNERS' TO DEFEND, INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY AND THE OTHER INDEMNIFIED PERSONS FROM THE CONSEQUENCES OF THE CITY'S AND OTHER INDEMNIFIED PERSONS' OWN NEGLIGENCE, PROVIDED, HOWEVER, THAT THE INDEMNITY AND HOLD HARMLESS PROVIDED FOR IN THIS SECTION SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF THE CITY, OR OTHER OF THE INDEMNIFIED PERSONS, IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, DAMAGE, OR DESTRUCTION, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF THE CITY OR OTHER INDEMNIFIED PERSON IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, DAMAGE, OR DESTRUCTION. FURTHER, IF ANY INDEMNIFIED PERSON SUFFERS ANY CLAIM THAT IS CAUSED BY THE CONCURRENT NEGLIGENCE OF THE DECLARANT AND OWNER (OR EITHER OF THEM) AND THE INDEMNIFIED PERSON, THE DECLARANT AND/OR OWNER'S INDEMNITY AND HOLD HARMLESS OBLIGATION SET FORTH ABOVE WILL BE LIMITED TO A FRACTION OF THE TOTAL CLAIMS EQUIVALENT TO THE DECLARANT'S AND/OR OWNERS' (AS THE CASE MAY BE) OWN PERCENTAGE OF RESPONSIBILITY.

THE PROVISIONS OF THIS DEFENSE, INDEMNIFICATION AND HOLD HARMLESS ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO, AND THE CITY, AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DECLARANT AND OWNERS SHALL ADVISE THE CITY IN WRITING OF ANY CLAIMS AGAINST THE INDEMNIFIED PERSONS, OR ANY OF THEM, KNOWN TO THE DECLARANT OR THE OWNERS RELATED TO OR ARISING OUT OF THIS DECLARATION, AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIMS AT DECLARANT'S AND/OR OWNERS' COST. THE CITY, OR OTHER OF THE INDEMNIFIED PERSONS, SHALL HAVE THE RIGHT TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DECLARANT OR OWNERS FROM ANY OF ITS OBLIGATIONS UNDER THIS DECLARATION.

- (2) RELEASE. DECLARANT AND OWNERS HEREBY RELEASE, REMISE, AND FOREVER DISCHARGE THE TOWN OF ADDISON, TEXAS AND EACH INDEMNIFIED PERSON, FROM ANY AND ALL CLAIMS (AS DEFINED ABOVE) ARISING OUT, RELATED TO, OR IN CONNECTION WITH THE EXERCISE BY THE CITY, AND ITS OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS, OF ANY OF THE RIGHTS AND AUTHORITY OF THE CITY AS SET FORTH IN THIS DECLARATION. DECLARANT AND OWNERS AGREE THAT, IN THE EVENT THIS PROVISION IS DEEMED FOR ANY REASON TO BE UNENFORCEABLE, DECLARANT AND OWNERS WILL GIVE TO THE CITY AND EACH INDEMNIFIED PERSON, AT THE CITY'S REQUEST, A RELEASE AND DISCHARGE FROM ANY AND ALL CLAIMS THAT MAY ARISE IN CONNECTION WITH THIS DECLARATION AND THE CITY'S EXERCISE OF ITS AUTHORITY HEREUNDER.
- (3) The provisions of the DEFENSE, INDEMNITY, AND HOLD HARMLESS and the RELEASE set forth herein shall survive the termination of this Declaration for any reason.
- D. No City Obligations. Notwithstanding any other provision of this Declaration, those certain rights and that authority extended and given to the City as set forth in this Declaration are extended and given to the City as a third party beneficiary only, and the City may in its sole and absolute discretion, but is not obligated and has no duty whatsoever, to exercise or pursue any of such rights and authority. Further, the City has no obligation or duty whatsoever under or pursuant to this Declaration to make, pursue, construct, reconstruct, repair, modify, alter, or build any utility or drainage improvements or facilities of any kind, and this Declaration does not and is not intended to address or concern the same.
- Section 5. <u>Termination; Amendment</u>. This Declaration may be amended or terminated only upon the filing, in the Real Property Records of Dallas County, Texas, of an instrument approved by the City Council of the City and approved as to form by the City Attorney. The City Council shall approve an instrument amending or terminating this Declaration if the Detention Area is no longer needed for drainage purposes and the modification to the Drainage Area is in accordance with Applicable Law.

Declarant shall file the amending or terminating instrument in the Real Property Records of Dallas County, Texas at Declarant's sole cost and expense of Grantee. After filing the amending or terminating instrument in the said Deed Records, Declarant shall file two copies of the instrument with the City Building Official. No amendment or termination of this Declaration is effective until the amending or terminating instrument is filed in accordance with this Section.

Section 6. <u>Liens or Mortgages</u>. Declarant certifies and represents that there are no liens or mortgages, other than liens for *ad valorem* taxes, against the Property (or any portion thereof) if there are no signatures of lienholders or mortgagees set forth below.

Section 7. Miscellaneous.

A. No consent to modification or termination of the provisions of this Declaration shall ever be required of any tenant, lessee, agent, employee, guest or licensee of the Property, or any customer, guest or invitee of any such tenant or lessee of the Property.

- B. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property, including the Detention Area, to the general public or for any public use whatsoever.
- C. In the event of any action under this Declaration, venue shall be instituted and maintained in Dallas County, Texas. The Parties agree that the laws of the State of Texas govern the validity, construction, enforcement and interpretation of this Declaration; and, with respect to any conflict of law provisions, the Parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Declaration.
- D. This Declaration shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, representatives, successors, and assigns, and any tenant, licensee, and any other person claiming an ownership, possessory, or occupancy right to the Property.
- E. This Declaration and all of its terms and conditions are subject to Applicable Law. Without limiting the foregoing, this Declaration and all of its terms and provisions, do not waive or release the Property, and the Declarant and Owners (or any other person or entity whatsoever), from compliance with the City's zoning and subdivision (platting) ordinances, and the use, development, and occupancy of the Property shall comply with the same.
- F. For purposes of this Declaration, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.
- G. The failure to exercise any right, power, or option given under this Declaration, or to insist upon strict compliance with the terms of this Declaration, shall not constitute a waiver of the terms and conditions of this Declaration with respect to any other or subsequent breach thereof, nor a waiver of rights at any time thereafter to require exact and strict compliance with all the terms hereof.
- H. The rights and remedies provided by this Declaration are cumulative and the use of any one right or remedy shall not preclude or waive its right to use any or all other remedies. The said rights and remedies are given in addition to any other rights a person or entity may have by law, equity, or otherwise.
- I. All obligations or matters arising prior to the termination of this Declaration allocating responsibility or liability shall survive the cancellation, expiration or termination of this Declaration.
- J. If any provision of this Declaration is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and this Declaration shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there shall be added automatically as a part of this

Declaration a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

- K. Notwithstanding the fact that Declarant owns title to all of the Property as of the date hereof, there shall be no merger of title between the servient and benefitted estates herein created, and the benefits and obligations created hereunder shall constitute benefits and servitudes running with the land.
- L. For purposes hereof, any notice hereunder shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given: when received if delivered personally or sent via telecopy or facsimile transmission with written confirmation of receipt; forty-eight (48) hours after deposit if sent by mail; and twenty-four (24) hours after deposit if sent by Federal Express or other nationally recognized carrier. For purposes of notice, the addresses of the parties, until changed as herein provided, shall be as follows:

Declarant:			
	-		

- M. This Declaration shall be filed of record in the Dallas County Deed Records upon its execution, and shall not be effective until such time as it is recorded. Promptly following its recording of this Declaration, Grantee shall file with the City a fully executed true and correct copy of this Declaration as recorded.
- N. Any mortgage or deed of trust affecting the Property or any portion thereof shall at all times be subject and subordinate to the terms of this Declaration, and any person acquiring title by reason of foreclosure under any such mortgage or deed of trust, or deed in lieu of foreclosure, shall acquire title to the Property or portion thereof subject to all of the terms, provisions, and conditions of this Declaration.

[ADD DECLARANT SIGNATURE]

[ADD DECLARANT ACKNOWLEDGMENT]

[ADD CONSENT OF LIENHOLDER]

[ADD LIENHOLDER ACKNOWLEDGMENT]

Acceptance by Town of Addison, Texas

The Town of Addison, Texas ("City"), solely as a third party beneficiary of the above and foregoing Declaration of Storm Water Detention Area, hereby accepts the benefits due, the terms and conditions applicable to, and the remedies and authority available to the City as set forth in the above and foregoing Declaration.

By:	
	Ron Whitehead, City Manager
Dated:	

TOWN OF ADDISON TEXAS

EXHIBIT A

[DESCRIPTION OF THE PROPERTY]

EXHIBIT B

[PROPOSED FINAL PLAT - SUBSTITUTE APPROVED FINAL PLAT WHEN APPROVED]

EXHIBIT C

[DETENTION AREA PLANS]

STATE OF TEXAS	§	
	§	EASEMENT RELOCATION AGREEMENT
COUNTY OF DALLAS	§	

This Easement Relocation Agreement ("Agreement") is made and entered into this the day of _______, 2007 (the "Effective Date") by and between Oncor Electric Delivery Company ("Oncor"), Southwestern Bell Telephone, L.P., d/b/a "AT&T Texas" ("AT&T"), and TCI Woodmont Group VIII, L.P. ("Woodmont"), and the Town of Addison, Texas (the "City") (Oncor, AT&T, Woodmont, and the City are sometimes referred to herein together as the "parties" and individually as a "party").

Recitals:

WHEREAS, Oncor and AT&T own an easement and right-of-way approximately ten (10) feet in width upon, over and across certain land as set forth in that instrument recorded in Volume 82093, Page 450, Deed Records, Dallas County, Texas (the "Easement"), a true and correct copy of which is attached hereto as Exhibit A and incorporated herein, the current and existing location of which Easement (the "Current Easement Location") is as shown and depicted on the Final Plat (as hereinafter defined); and

WHEREAS, the Easement speaks for itself but generally provides in part that, in the event any road adjacent to the Easement is widened in the future, upon such widening both Oncor and AT&T have the right to relocate their respective utilities in the same relative position to the adjacent road as widened; and

WHEREAS, Woodmont is the sole owner of certain real property (the Woodmont Property) located within the City of Addison (the "City") as described and shown on the Preliminary Plat attached hereto as Exhibit B and incorporated herein (the "Preliminary Plat"); and

WHEREAS, as of the date of execution of this Agreement, Woodmont has submitted to the City the Preliminary Plat for its review and consideration, and if the same is approved by the City, the Preliminary Plat as approved by the City and as recorded in the Real Property Records of Dallas County, Texas shall become the Final Plat (the "Final Plat"), a true and correct copy of which shall be attached hereto and substituted for Exhibit B (and shall be made a part of this Agreement for all purposes) at such time; and

WHEREAS, a portion of the Easement lies adjacent to and abuts the west side of the Woodmont Property and lies along and adjacent to the east boundary line of Addison Road, a 60 foot wide public road and right-of-way owned by the City ("Addison Road"), as shown on the Final Plat; and

WHEREAS, by this Agreement the parties desire to confirm the utility relocation rights of Oncor and of AT&T as set forth in the Easement and to provide that, if and when the City widens Addison Road in the future, Woodmont (its successors, assigns, grantees, and/or any other person or entity having or claiming any interest whatsoever (ownership, possessory, lien, mortgage, occupancy, or otherwise) in or to the Woodmont Property) consents to such utility

relocation on the Woodmont Property in an area immediately adjacent to the Current Easement Location and will provide to Oncor and to AT&T such instrument(s) in form and substance mutually agreeable to Woodmont, Oncor and AT&T and that reflects such relocation and grants a replacement easement.

- **NOW, THEREFORE**, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, Oncor, AT&T, Woodmont, and the City hereby contract and agree as follows:
- Section 1. <u>Incorporation of Premises</u>. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.
- Section 2. Incorporation of Tariffs. The Public Utility Commission of Texas approved Tariffs of Oncor and AT&T and all future revisions thereto, as well as all other rules, regulations, and laws applying to Oncor or AT&T as a regulated Transmission and Distribution Service Provider and as a Certified Telecommunications Provider, respectively, are incorporated herein by reference. In the event that there is ever a conflict between the terms of this Agreement and any Tariff provision, rule, regulation, or law, the Tariff provision, rule, regulation, or law shall prevail and control.

Section 3. Easement Relocation.

- A. In the event Addison Road is widened, Oncor and AT&T will relocate their respective utility facilities from the Current Easement Location to a location upon and within the Woodmont Property and adjacent to Addison Road as widened, such location being in the same relative position to Addison Road as then widened (the "Future Easement Location"). A depiction of the general area within the Woodmont Property where the Future Easement Location may occur is shown on Exhibit C attached hereto and incorporated herein. The City shall reimburse Oncor and AT&T for all costs and expenses, of any nature whatsoever, incurred by Oncor and AT&T with regard to the relocation of their respective facilities.
- B. In connection with the widening of Addison Road and the relocation of the Easement to the Future Easement Location, Woodmont (its successors, assigns, grantees, and/or any person or interest owning or claiming any interest whatsoever (ownership, possessory, lien, mortgage, occupancy, or otherwise) in the Woodmont Property or any portion thereof) shall, at no cost or charge to Oncor, AT&T, or the City, convey to each of Oncor and AT&T a ten foot wide replacement Easement, in form and substance satisfactory to each of Oncor and AT&T, which reflects the relocation of the Easement.
- C. With respect to the Future Easement Location, Woodmont, Oncor, and AT&T agree to allow Woodmont to permit parking in locations within the boundaries of the Future Easement Location, as depicted on the Site Plan ("Site Plan"), a true and correct copy of which is attached hereto as Exhibit D, provided that such parking shall not interfere with Oncor's and AT&T's rights in the Future Easement Location. However, notwithstanding the previous sentence, Oncor does not, and shall not permit or allow any parking within the Future Easement Location as code parking to satisfy the requirements of the City, or any other governmental or

regulating body and City agrees to reduce Woodmont's code parking requirements in the event that Oncor acquires an easement onto any areas then in use for code parking by Woodmont.

- D. In the event that, due to Woodmont's paving or landscaping of the Future Easement Location, Oncor or AT&T incur additional costs (as compared to the costs that would have been incurred if the area were not paved or landscaped) to perform necessary repairs, replacement or maintenance of the relocated facilities, or to install additional facilities within the Future Easement Location, Woodmont agrees to compensate Oncor or AT&T for any such reasonable additional costs that Oncor or AT&T incur. Oncor and AT&T do not hereby consent to any other encroachments, whether currently existing or occurring in the future, upon the Future Easement Location, and shall not be liable for any damage caused to any such encroachments during the repair, replacement or maintenance of the relocated facilities, or the installation of the new facilities within the Future Easement Area.
- Section 4. <u>Binding Effect; Covenant Running with the Property</u>. This Agreement shall be binding upon and shall inure to the benefit of Oncor and AT&T (and their respective successors and assigns, whether by merger or otherwise), Woodmont (its successors, assigns, grantees, and/or any person or entity having or claiming any interest whatsoever (ownership, possessory, lien, mortgage, occupancy, or otherwise) in or to the Woodmont Property), and the City, its successors and assigns, each of whom shall be bound to abide by this Agreement. This Agreement, and all of the rights, duties, and obligations set forth herein, is and shall be deemed an encumbrance upon and a covenant running with the land (the Woodmont Property).
- Section 5. <u>Amendment</u>. This Agreement may be amended only upon the filing, in the Real Property Records of Dallas County, Texas of an instrument in writing approved by Woodmont, Oncor, AT&T, and the City.
- Section 6. <u>Liens or Mortgages</u>. Woodmont certifies and represents that there are no liens or mortgages, other than liens for *ad valorem* taxes, against the Woodmont Property (or any portion thereof) if there are no signatures of lienholders or mortgagees set forth below.

Section 7. Miscellaneous.

- A. In the event of any action under this Agreement, venue shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas govern the validity, construction, enforcement and interpretation of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.
- B. This Agreement and all of its terms and conditions are subject to any and all laws applicable laws, ordinances, rules, standards, and regulations of any governmental authority or entity.
- C. For purposes of this Agreement, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

- D. The failure to exercise any right, power, or option given under this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver of rights at any time thereafter to require exact and strict compliance with all the terms hereof.
- E. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy shall not preclude or waive its right to use any or all other remedies. The said rights and remedies are given in addition to any other rights the parties or any of them may have by law, equity, or otherwise.
- F. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there shall be added automatically as a part of this Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- G. For purposes hereof, any notice hereunder shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given: when received if delivered personally or sent via telecopy or facsimile transmission with written confirmation of receipt; forty-eight (48) hours after deposit if sent by mail; and twenty-four (24) hours after deposit if sent by Federal Express or other nationally recognized carrier. For purposes of notice, the addresses of the parties, until changed as herein provided, shall be as follows, and each of the parties are entitled to rely upon the same for all purposes:

To Oncor:	To Woodmont:		
Attn:	TCI Woodmont Group XIII, LP c/o Icon Partners 5050 Spring Valley Road, Suite 200 Dallas, Texas 75244		
<u>To AT&T</u> :	To the City:		
AT&T c/o Right of Way Dept. 13845 FAA Blvd.	Town of Addison, Texas 5300 Belt Line Road Dallas, Texas 75254		
Ft. Worth, TX 76155	Attn: City Manager		

H. This Agreement shall be filed of record in the Real Property Records of Dallas County, Texas upon its execution.

- I. Any mortgage or deed of trust affecting the Woodmont Property or any portion thereof shall at all times be subject and subordinate to the terms of this Agreement, and any person acquiring title by reason of foreclosure under any such mortgage or deed of trust, or deed in lieu of foreclosure, shall acquire title to the Property or portion thereof subject to all of the terms, provisions, and conditions of this Agreement.
- J. The undersigned officers and/or agents of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of each of the respective parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

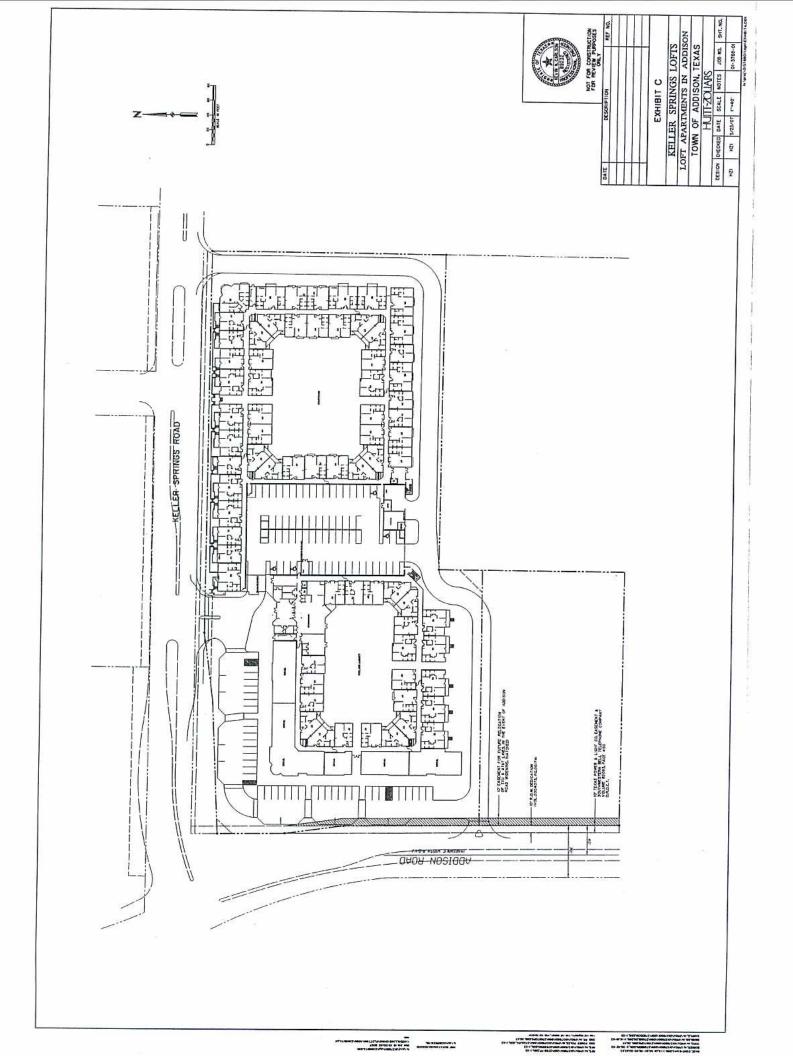
EXECUTED by the parties to be effective as of the Effective Date as set forth above.

AGREED:
TCI Woodmont Group VIII, LP, by and through Keller Springs Lofts GP, LLC, its General Partner
Ву:
Dan Robinowitz
Manager, Keller Springs Lofts GP, LLC
Oncor Electric Delivery Company
By: Name:
Name:
Title:
Southwestern Bell Telephone, L.P.
Ву:
Name:
Title

ACKNOWLEDGEMENT

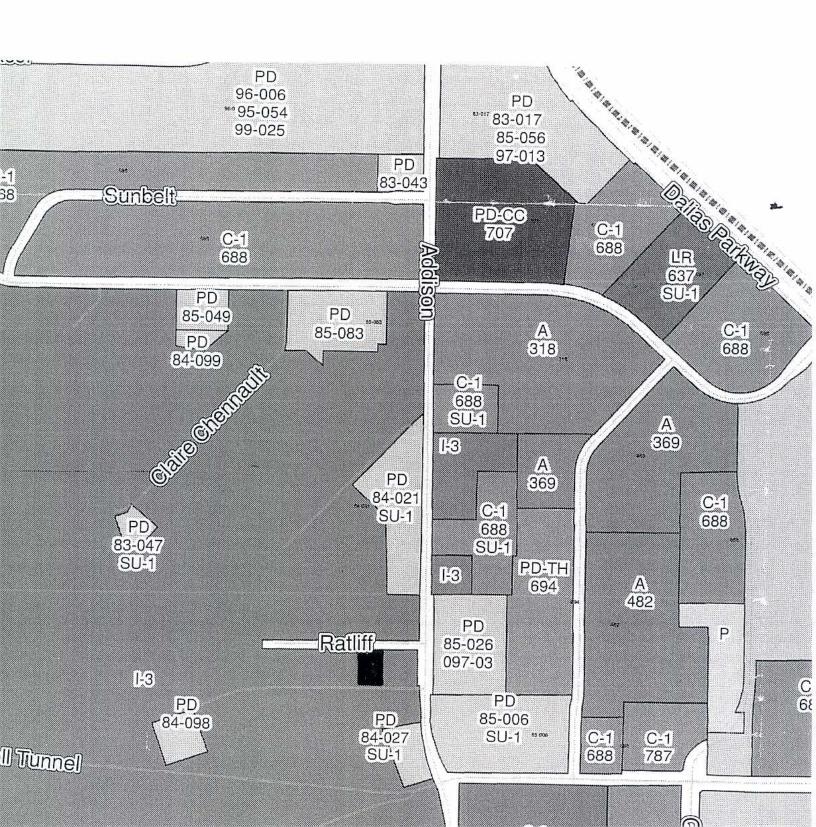
STATE OF TEXAS COUNTY OF DALLAS	§ §					
behalf of Keller Springs Lofts by Dan Robinowitz, who tool	s GP, LLC, as Genera k an oath, and who sta	ged before me this day of June 2007, all Partner for TCI Woodmont Group VIII, tates he has read and understands the foregoly for the purposes therein expressed and in	LP, oing			
[affix seal above]		Notary Public – State of Texas	-			
ACKNOWLEDGEMENT						
STATE OF TEXAS COUNTY OF DALLAS	§ §					
behalf of Oncor Electric Deliv	very, by as executed it freely a	ed before me this day of June 2007 , who states he has read and understan and voluntarily for the purposes therein				
[affix seal above]		Notary Public – State of Texas				
[4	Add Signatures and A	.cknowledgments]				

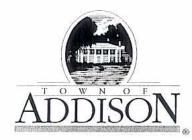
[Add Exhibits]



FINAL PLAT/Addison Storage Addition

FINAL PLAT/Addison Storage Addition. Requesting approval of a final plat for one lot of .426 acres, located in an Industrial-3 district at 4700 Ratliff Lane, on application from Addison Storage Associates, represented by Mr. Bruce Myers





Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

June 21, 2007, 2007

STAFF REPORT

RE:

FINAL PLAT/Addison Storage

Addition

LOCATION:

One lot on .426 acres in an I-3, Industrial-3 district at 4700 Ratliff

Lane

REQUEST:

Approval of a final plat

APPLICANT:

Addison Storage Associates, represented by Mr. Bruce Myers

DISCUSSION:

<u>Background</u>. This site contains one building that is part of a 4-building complex. Although it appears to be within the confines of the Addison Airport, it is actually not airport property, but is owned fee simple by Addison Storage Associates. The site was originally developed as one large lot with a building facing Addison Road (which is currently vacant) and three metal industrial buildings to the west of the Addison Road building. At this point, the owner desires to sell the middle metal industrial building to a separate owner. Therefore, the site of the middle building must be replatted into a separate parcel to create a legal lot.

<u>Public Works Review</u>. Public Works reviewed the proposed plat and notes the following:

- Please correct the spelling of Glenn Curtiss on both the face of the plat and the Owner's Certificate.
- Revise the "Certificate of Approval" to be approved by the City Council and signed by the Mayor and City Secretary.
- 3. Change all references of "City of Addison" to "Town of Addison."
- 4. Remove the building setback line.
- The preamble of the Owner's Certificate is used twice. Please remove the duplicate text.
- 6. Please remove the arcane symbols from the Owner's Certificate.

- 7. The Dedication Statement from the Town of Addison Code of Ordinances shall be utilized.
- The reference in the Owner's Certificate of 102.66 feet does not match what is shown on the face of the plat as 120.66'. Please verify and utilize the correct dimension.
- The Owner's Certificate calls for an "X" cut and a ½" IRS is shown on the face of the plat. Please verify and utilize the correct monument type.
- 10. Provide a closure sheet.

Building Code. Lynn Chandler has noted that once the property is subdivided, the building will require a fire wall at the west property line. The building may already have a fire wall at the west property line, but staff cannot determine that without cutting into the wall. Therefore, Lynn Chandler is advising the owner that he will either have to provide a fire wall (if there is not one) or execute a unity agreement between the two owners. Unity agreements are civil agreements between adjacent property owners, and they have a paragraph that indemnifies the Town from any damage incurred because the Town allowed the owners to construct close to the property line. Unity agreements can be approved by the Building Official (after City Attorney review) and o not require Commission or Council action.

RECOMMENDATION:

Staff recommends approval of the final plat, on application from Addison Storage Associates, subject to the conditions listed above.

Respectfully submitted,

Carmen Moran

Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the final plat on application from Addison Storage Associates, subject to the following conditions:

- Please correct the spelling of Glenn Curtiss on both the face of the plat and the Owner's Certificate.
- 2. Revise the "Certificate of Approval" to be approved by the City Council and signed by the Mayor and City Secretary.
- 3. Change all references of "City of Addison" to "Town of Addison."
- Remove the building setback line.
- The preamble of the Owner's Certificate is used twice. Please remove the duplicate text.
- 6. Please remove the arcane symbols from the Owner's Certificate.
- 7. The Dedication Statement from the Town of Addison Code of Ordinances shall be utilized.
- 8. The reference in the Owner's Certificate of 102.66 feet does not match what is shown on the face of the plat as 120.66'. Please verify and utilize the correct dimension.
- 9. The Owner's Certificate calls for an "X" cut and a ½" IRS is shown on the face of the plat. Please verify and utilize the correct monument type.
- 10. Provide a closure sheet.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood



PUBLIC WORKS DEPARTMENT Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972) 450-2837

16801 Westgrove

Memorandum

To:

Carmen Moran

CC:

Nancy Cline

From:

Clay Barnett

Date:

6/21/2007

Re:

Addison Storage Addition

1. Please correct the spelling of Glenn Curtiss on both the face of the plat and the Owner's Certificate.

2. Revise the "Certificate of Approval" to be approved by the City Council and signed by the Mayor and City Secretary.

3. Change all references of "City of Addison" to "Town of Addison."

4. Remove the building setback line.

- 5. The preamble of the Owner's Certificate is used twice. Please remove the duplicate text.
- 6. Please remove the arcane symbols from the Owner's Certificate.
- The Dedication Statement from the Town of Addison Code of Ordinances shall be utilized.
- 8. The reference in the Owner's Certificate of 102.66 feet does not match what is shown on the face of the plat as 120.66'. Please verify and utilize the correct dimension.
- 9. The Owner's Certificate calls for an "X" cut and a ½" IRS is shown on the face of the plat. Please verify and utilize the correct monument type.
- 10. Provide a closure sheet.

To: Carmen Moran, Director Development Services

From: Lynn Chandler, Building Official

Date; June 20, 2007

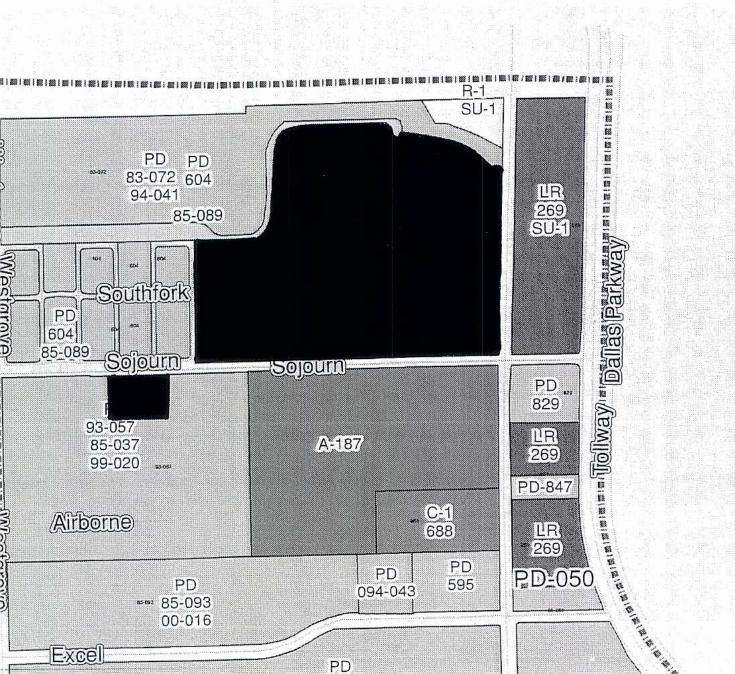
Subject: FINAL PLAT/ Addison Storage Addition

When they subdivide the property the west wall for the building, or buildings, under consideration will be on the west property lines. The 2003 IBC would then require the walls to be rated 1 HR. But if they execute a unity agreement the walls need not be rated. The unity agreement is structured to allow the owners to waive the firewall requirements due to proximity to the property lines for building code purposes only and it also has a section to indemnify the Town. If they had the proper firewalls on the walls they wouldn't need the unity agreement.

Lynn

1540-SUP

PUBLIC HEARING. Case 1540-SUP/Trinity Christian Academy. Requesting approval of an amendment to an existing Special Use Permit for a private school in an R-1 (Residential-1 District), located at the northwest corner of Addison Road and Sojourn Drive, with the proposed addition located at 4350 Sojourn Drive, on application from Trinity Christian Academy, represented by Mr. Gene Jameson of Jameson & Powers, Architects.





Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

May 18, 2007

STAFF REPORT

RE:

Case 1540-SUP/Trinity Christian

Academy

LOCATION:

4350 Sojourn Drive

REQUEST:

Approval of an amendment to an

existing Special Use Permit for a private school in an R-1 (Residentiial-1) district,

located at 4350 Sojourn Drive

APPLICANT:

Trinity Christian Academy, represented

by Mr. Gene Jameson of Jameson &

Powers, Architects

DISCUSSION:

<u>Background</u>. Trinity Christian Academy obtained a Special Use Permit from the Town for a private school through Ordinance 166, approved on January 21, 1974. Since that time, the school has been in continuous operation and the SUP has been amended many times as the master plan for the school has been revised. Several new buildings have been built on the site, as well as new athletic facilities.

In 1998, the 1.76 acres at 4350 Sojourn, which is on the south side of Sojourn and just west of Trinity Christian Academy) was purchased by the Dallas Gymnastics Center. It was rezoned to a PD through Ordinance 098-008, which was approved by the Council on March 10, 1998. Dallas Gymnastics built a large gymnastics facility that included a chiropractor's office, and it ran gymnastics classes in the building until last year.

Dallas Gymnastics closed its operation in the building in late 2006. The chiropractor's office is still in the facility, but will be moving out in a few months. Trinity Christian Academy has purchased the building and is going to remodel it to provide additional gymnasium space for the school. Trinity particularly needs the space for high school and middle school girls volleyball practice.

<u>Proposed Plan</u>. The existing gymnastics facility is 17,825 square feet. It contains a large open space for floor exercise, two gymnasts' pits, a smaller gym, and several offices.

Trinity Christian is planning to convert the large open area into a standard basketball court, and convert the smaller gym into a weight room and wrestling facility. It will also convert some of the offices to locker rooms, and a large open counter area to a coaches' office.

<u>Façade</u>. The existing facility is concrete tilt-wall construction. Trinity Christian is not planning to change the material of the facades, but it will paint the building to match the rest of the buildings on the Trinity Christian campus.

<u>Traffic.</u> The staff feels that Trinity Christian will be a good user for this facility. However, the staff had some concern about how the children would get safely across Sojourn Drive during school hours. The staff asked Trinity Christian to commission a traffic study, which is attached. The staff agrees with the traffic engineer from Lee Engineering that a crossing at Location B would be a good crossing location for the facility. The staff would note that Trinity Christian is planning to use this facility for high school and middle school kids only. There will not be any elementary-aged children crossing Sojourn.

The traffic study lists some improvements that need to be made in order to put the crosswalk in place:

260 feet of sidewalk, 5.5 feet wide. The traffic engineer recommended 140 feet of sidewalk, but the Town will require that the sidewalk be constructed all the way to the driveway so as not to have a dead-end sidewalk.

- -a 10-foot wide crosswalk, marked with high conspicuity reflective markings in a ladder configurations consisting of 24" solid stripe, 24" gap, 24" solid stripe.
- -an S1-1 crosswalk warning sign with an W16-7pR plaque, placed at least 2 feet off the curb immediately adjacent to the crosswalk.

Staff would note that these improvements must be installed at Trinity Christian's expense.

<u>Parking</u>. The parking requirement for this facility is 28 spaces. The building provides 103 spaces, which is more than adequate for the gymnasium. The staff understands that Trinity Christian plans to utilize this lot for special event (football game) parking, which should help eliminate the parking of cars on the street during football games.

<u>Landscaping</u>. An approved landscaping plan was installed on the site when it was constructed. The Trinity Christian staff has been in contact with Slade Strickland about renovating the site and some renovations are underway. However, it will need to be completely renovated before issuance of a Certificate of Occupancy.

RECOMMENDATION:

Staff recommends approval of the amendment to the existing Special Use Permit for a private school in an R-1 district, in order to revise the master plan to include the building at 4350 Sojourn, subject to the following conditions:

Prior to the issuance of a Certificate of Occupancy for the building, a crosswalk shall be installed that includes the following items:

-260 feet of sidewalk, 5.5 feet wide, installed from the west property line of Trinity Christian Academy across the Addison Place site to the easternmost driveway at the Addison Place neighborhood.

-a 10-foot wide crosswalk, marked with high conspicuity reflective markings in a ladder configurations consisting of 24" solid stripe, 24" gap, 24" solid stripe.

-an S1-1 crosswalk warning sign with an W16-7pR plaque, placed at least 2 feet off the curb immediately adjacent to the crosswalk.

The landscaping on the site shall be renovated in accordance with the approved plan on file before the issuance of a Certificate of Occupancy.

Respectfully submitted,

Carmen Moran

Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on May 24, 2007, voted to table the request until the June 28, 2007 meeting.

Voting Aye: Bernstein, Gaines, Jandura, Lay, Wood

Voting Nay: Chafin, Daseke, Jandura

Absent: None

AMENDMENT TO STAFF REPORT OF MAY, 18, 2007

The staff has discussed the proposed crosswalk again with the staff at Trinity Christian Academy. Staff has also re-evaluated the report from the traffic engineer.

The report notes that there would be approximately 30 students, in grades 9-12, crossing from Trinity Christian to the new facility in the mornings. The Trinity Christian staff noted at the meeting that these kids are coming in to lift weights in the mornings, and they would come directly from home to the facility. Most of the kids have cars and will drive from the facility back to the north side of the campus to park for the rest of the day in the student parking lots. The TCA staff estimates there will be significantly less than 30 students crossing in the morning, which is the busier time for traffic on Sojourn Drive.

The staff looked at the cost of adding a flashing warning light at the crosswalk, and found that two flashing warning lights (one for each side of the street), completely installed, would cost approximately \$20,000. Staff does not feel that the flashing lights are necessary, and they were not recommended by the traffic engineer who evaluated the site.

RECOMMENDATION:

Staff has reviewed the study provided by Lee Engineering, and it feels that the recommendations made by the engineer sufficiently provide for the safety of the Trinity Christian students. The staff feels that the crosswalk, as specified by the engineer, is adequate based on the times the students will be using the crosswalk, the limited number of students that will be using the crosswalk, and the ages (grades 9-12) of the students using the crosswalk.

Staff recommends approval of the amendment to the existing Special Use Permit for a private school in an R-1 district, in order to revise the master plan to include the building at 4350 Sojourn, subject to the following conditions:

Prior to the issuance of a Certificate of Occupancy for the building, a crosswalk shall be installed that includes the following items:

-260 feet of sidewalk, 5.5 feet wide, installed from the west property line of Trinity Christian Academy across the Addison Place site to the easternmost driveway at the Addison Place neighborhood.

 -a 10-foot wide crosswalk, marked with high conspicuity reflective markings in a ladder configurations consisting of 24" solid stripe, 24" gap, 24" solid stripe. -an S1-1 crosswalk warning sign with an W16-7pR plaque, placed at least 2 feet off the curb immediately adjacent to the crosswalk.

The landscaping on the site shall be renovated in accordance with the approved plan on file before the issuance of a Certificate of Occupancy.

Respectfully submitted,

Carmen Moran

Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the request for amendment to the Special Use Permit on application from Trinity Christian Academy, subject to the following conditions:

Prior to the issuance of a Certificate of Occupancy for the building, a crosswalk shall be installed that includes the following items:

-260 feet of sidewalk, 5.5 feet wide, installed from the west property line of Trinity Christian Academy across the Addison Place site to the easternmost driveway at the Addison Place neighborhood.

-a 10-foot wide crosswalk, marked with high conspicuity reflective markings in a ladder configurations consisting of 24" solid stripe, 24" gap, 24" solid stripe.

-an S1-1 crosswalk warning sign with an W16-7pR plaque, placed at least 2 feet off the curb immediately adjacent to the crosswalk.

The landscaping on the site shall be renovated in accordance with the approved plan on file before the issuance of a Certificate of Occupancy.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Carmen Moran

From:

Clay Barnett

Sent:

Monday, June 04, 2007 10:25 AM

To:

Carmen Moran

Cc:

Robin Jones

Subject: RE: TCA flashing sign

Carmen.

I spoke with Robin Jones. He said that the last time the set up a pair of flashing lights for a school zone, the lights ran roughly \$7500 apiece installed. Based on that, I think we are looking at a ballpark figure of roughly \$20k for a pair of flashing lights along Sojourn. If you need a more detailed cost estimate, please let me know.

Thanks. Clay Barnett, P.E. Assistant Town Engineer Town of Addison 16801 Westgrove Drive Addison, TX 75001-2818 Office: (972) 450-2857

> ----Original Message----From: Carmen Moran

Sent: Wednesday, May 30, 2007 2:25 PM

To: Clay Barnett; Robin Jones Subject: TCA flashing sign

Robin/Clay

Clay and I attended P&Z last week, and the Trinity Christian request was tabled. The P&Z would like to look at options to make the crossing safer. One option that was mentioned was a flashing light that could be activated with a button so that when kids were going to cross they could push a button and the light would flash, and then would quit flashing after a time.

Can we find out what one of those, installed, would cost?

Carmen Moran Director of Development Services Town of Addison P.O. Box 9010 Addison, TX 75001 P: 972-450-2886

F: 972-450-2837

cmoran@ci.addison.tx.us



May 17, 2007

Larry Kivioja Business Manager Trinity Christian Academy 17001 Addison Road Addison, Texas 75001

Re:

Potential Pedestrian Crossings along Sojourn Drive (Revised letter report reflecting City comments)

Dear Mr. Kivioja:

Lee Engineering (LEE) is pleased to submit this letter report documenting our analysis of pedestrian crossing issues related to the proposed location of new Trinity Christian Academy (TCA) facilities on the southern side of Sojourn Drive.

Background

The facilities previously used by the Dallas Gymnastics Center on the southern side of Sojourn (located at 4550 Sojourn) will be utilized by TCA for weight room and gymnasium purposes. This facility will primarily be used in the before (6AM-8AM) and after school (3:30 PM-6:30 PM) hours by athletics team members. This will result in high school age (9th – 12th grade) students crossing Sojourn Drive in order to access the facility or to return to the TCA main campus. Based on conversations with TCA representatives, it is our understanding that an estimated 20-30 pedestrians would be expected to cross Sojourn from the southern facility to the main campus at approximately 8:00 AM. This time period corresponds with the peak arrival time for motorists accessing TCA. Similarly 20-30 students are anticipated to cross from the TCA main campus to the south during the period immediately after school dismissal. At this time, no activities during the school day are planned for this facility.

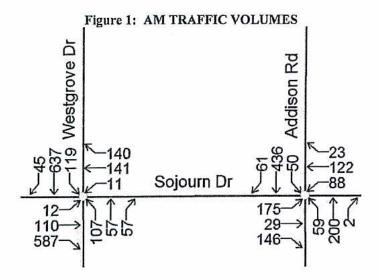
Existing Conditions

LEE performed two site visits to the study are to document existing conditions, as well as to observe existing traffic operations related to the TCA main campus. The first site visit was conducted on Wednesday, April 18, 2007 between 2:00 PM and 4:00 PM. The second site visit was conducted on Thursday, April 19, 2007 between the hours of 7:30 AM and 8:30 AM. The primary observations from our site visits are listed below:

- There is significant queueing and congestion along Addison Road during the AM and PM School peak hours.
- Some queueing and congestion along Sojourn Drive during the AM and PM School peak hours.
- An Addison PD officer was present during the AM school period to direct traffic along Addison Road to allow for turning movements into the upper school.
- There was a special event (track meet) in progress during our PM site visit, yet even with a

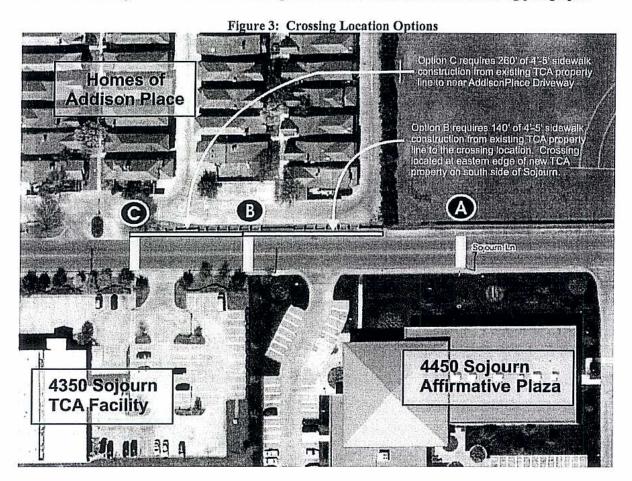
- special event there was little pedestrian activity along Sojourn related to TCA.
- A Dallas ISD bus stop is present along the southern side of Sojourn just west of the existing school zone flasher.
- TCA related queueing and congestion along Sojourn Drive occurs well to the east of the new facility.

Turning movement counts were collected from 7:00 AM to 9:00 AM and 2:30 PM to 4:00 PM at the intersection of Sojourn Drive and Addison Road, and at the intersection of Sojourn Drive and Westgrove Drive. These turning movement counts are shown in Figure 1 and Figure 2. The peak hour of both intersections was 7:30 AM to 8:30 AM during the morning traffic counts. The peak hour for the Westgrove at Sojourn intersection was 2:45 to 3:45 PM during the afternoon count. The peak hour for the Addison Road at Sojourn Drive intersection was 3:00 to 4:00 PM during the afternoon count. These turning movement counts, indicate that between 250 and 400 vehicles could be expected traveling in either direction along Sojourn during the AM or PM School peak hours. Our field observations indicate that the congestion and queueing along Sojourn associated with TCA traffic was isolated primarily to the eastern end of the campus near the Addison Road intersection. Numerous gaps of sufficient length to allow pedestrians to cross Sojourn were present in the 4400-4500 block of Sojourn near Affirmative Plaza and the proposed facilities during both the AM and PM School peak hours.



Pedestrian Crossing Options

Based on our observations in the study area and our understanding of the intended use of the proposed facility, LEE has developed three options for implementing a mid-block pedestrian crossing along Sojourn Drive. The three crossing locations are shown in **Figure 3** and are discussed in the following paragraphs.



Option A

Option A make use of existing sidewalk facilities in the area and places the crossing midway between the two site access drives to 4450 Sojourn Drive (Affirmative Plaza).

Pros:

- This location is desirable due to the approximate 140 feet of separation between the crossing location and any driveways.
- This location does not require any sidewalk construction.
- This location minimizes the total length of the School Speed Zone because the school zone could be started at the eastern edge of the new TCA property.

Cons:

This location is undesirable because the students would be required to cross one of the Affirmative Plaza driveways in order to travel between the two TCA facilities. Based on field observations the Affirmative Plaza driveways were the busiest driveways along Sojourn during the PM School peak hour with the exception of the TCA pickup operations near Addison Road.

Business owners may not want high school students walking directly in front of their facilities on a daily basis.

Option B

Option B locates the pedestrian crossing at the eastern edge of the new TCA facility. The crossing would essentially be located on the property line or just to the west of the property line between 4350 Sojourn and 4450 Sojourn.

Pros:

- This location places the crossing approximately 75 feet from any driveway.
- Students would not be required to cross any non-TCA driveways during their journey to or from the facility.

Cons:

- This location requires 140 feet of sidewalk construction (4' minimum, 5' desirable width) along the northern edge of curb along Sojourn.
- This location results in a sidewalk being placed between the curb and Addison Place screening wall that is located approximately five (5) feet off the northern curb of Sojourn. While less than desirable, it is not feasible to relocate the screening wall.

Option C

Option C ties the crossing into the existing north-south sidewalk on the TCA property that provides direct access to the main entrance of the new TCA facility.

Pros:

Students would not be required to cross any driveways during their journey to or from the new TCA property.

Cons:

- This location requires a total of 260 feet of sidewalk construction (4' minimum, 5' desirable width) along the northern edge of curb along Sojourn.
- This location would place the crossing in the operational area of the driveways on the north and south sides of Sojourn exposing pedestrians to numerous turning vehicle conflicts.
- This location would be less than 10 feet from the Addison Place driveway and less than 15 feet from the TCA access driveway.
- This location results in a sidewalk being placed between the curb and Addison Place screening wall that is located approximately five (5) feet off the northern curb of Sojourn. While less than desirable, it is not feasible to relocate the screening wall.

All three options consist of a marked crosswalk across Sojourn Drive, appropriate crosswalk signage (shown in Figure 4), and an extension of the existing School Speed Zone to the west along Sojourn.

Given the limited proposed use of the facility (high school students before and after school) and the predicted pedestrian volumes (20-30), no additional countermeasures are necessary at this time. If the use of the facility changes to incorporate younger pedestrians or volumes along Sojourn increase significantly, then a pedestrian refuge median island, a raised crosswalk, or mid-block narrowing of Sojourn should be considered.

Figure 4: Crosswalk Signage –
Fluorescent Yellow Green 36"x36" S1-1 with 24"x18" W16-7pR Plaque

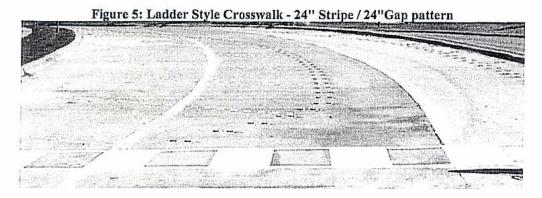


Recommended Option

<u>LEE recommends that TCA and the Town of Addison implement Option B</u> prior to opening the facility for student use. Option B should be implemented as it does not route the students across any commercial driveways, yet minimizes their exposure to turning traffic near driveways.

Option B will require the construction of approximately 140 feet of sidewalk. The sidewalk should tie into the existing end of sidewalk at the drainage inlet at the west end of TCA's current property. There appears to be approximately 5.5 feet between the existing back of curb and the Addison Place screening wall. If possible the sidewalk should be 5 feet in width but should be 4 feet in width at a minimum. While the spacing between curb and screening wall is less than desirable, pedestrian desire lines worn into the grass along Sojourn in this location indicate that pedestrians frequently walk in this area. Appropriate ADA ramps will need to be constructed on both the north and south side of Sojourn at this new crossing location (TxDOT Type 2 pedestrian ramp).

The crosswalk installed should have a minimum width of 6 feet. A 10 foot crosswalk width is more desirable and should be implemented if possible. The crosswalk should be marked with high conspicuity reflective markings in a ladder configuration consisting of 24" solid stripe, 24" gap, 24" stripe as shown in **Figure 5**. Figure 5 is a representative photo of a ladder style crosswalk but is not meant to illustrate how the crosswalk across Sojourn would appear. The S1-1 crosswalk warning sign with the W16-7pR plaque shown in Figure 4 should be placed at least 2 feet off the curb immediately adjacent to the crosswalk. The arrow plaque should point toward the roadway.



The existing eastbound school zone flashing beacon currently located approximately 100 feet west of the field house entrance will need to be relocated to the western property line of the new TCA facility when students begin using the facility. The Town of Addison will need to modify their school speed zone ordinance to reflect the new limits of the school speed zone. A School zone ahead sign assembly S1-1 with W16-9p "AHEAD" plaque will need to be installed 150-200 feet west of the new eastbound school zone flasher location. The westbound standard speed limit sign and "end school zone" warning sign assembly will also need to be relocated to the western property line of the new TCA facility.

Conclusion

This crossing treatment (Option B) is suitable to the traffic volumes and expected pedestrian activity located at the new TCA facility. Should the mix or primary age of students utilizing the new facility change, or traffic volumes along Sojourn substantially increase, a median refuge island or roadway narrowing should be considered.

LEE appreciates the opportunity to provide traffic engineering services to Trinity Christian Academy. Should you have any questions or comments regarding our recommendations please do not hesitate to contact me or Jody Short at (972) 248-3006.

Sincerely,

John Denholm III, P.E., PTOE

Project Engineer

Cc: Carmen Moran, Town of Addison, via email

Carmen Moran

From: Becky Thompson [thompson_becky@hotmail.com]

Sent: Friday, May 25, 2007 1:55 PM

To: Carmen Moran

Subject: 05/24/07 P&Z meeting

Below is a summary of what JoAnn and I brought to the P&Z's attention and would like to have considered or reviewed by the appropriate parties before the P&Z committee approving TCA's request to amend the SUP. Please pass this e-mail along to the rest of the committee members.

Becky's requests:

- 1. Do not allow parking on either side of Sojourn in order to eliminate blind spots for both drivers and pedestrians
- 2. Notify the DISD that a crosswalk has been installed and to consider relocating the scho bus stop
- 3. Determine if additional signage is necessary to alert drivers of a cross walk in the midd the street instead of at the street corners, where expected.

JoAnn's concerns:

- (1) How the school would handle parents' permission for younger students to ride in the an older student...and would the school share in any liability in case of an accident?
- (2) Had the school thought about how to handle students who walk to/from the gym in b. weather whether it be cold, rain, snow, etc?
- (3) Who would supervise that all students cross the street in the designated painted cros walks? Would the school hire a crossing guard to help the students cross in a safe manner.

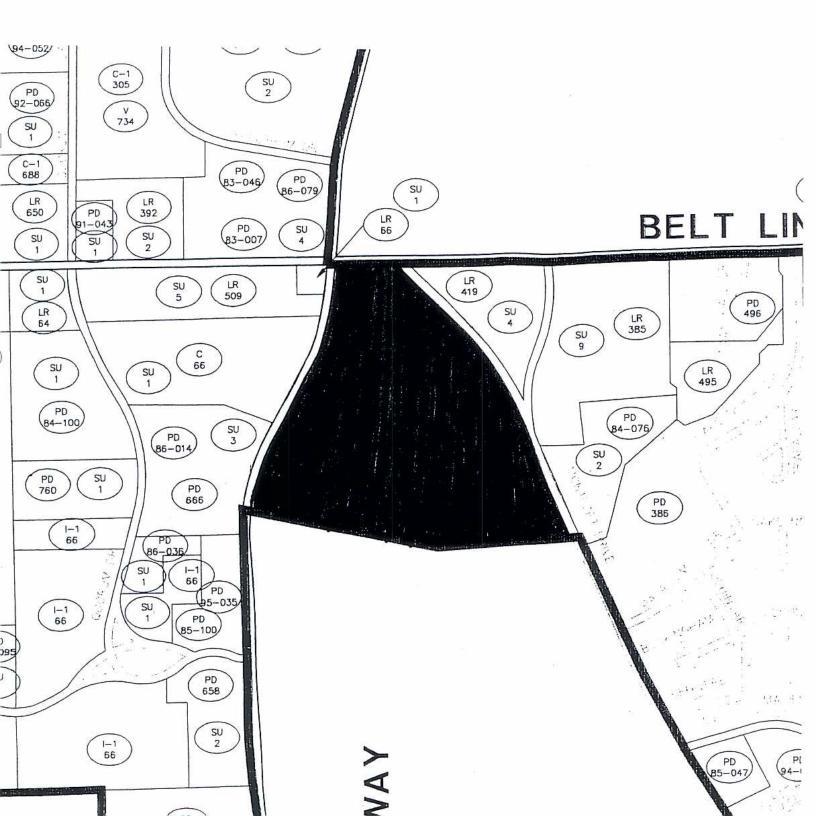
JoAnn's recommendations:

- (1) A traffic light could be installed at the designated crossing area. It could remain gree with a button to press to cross the street.
- (2) A foot bridge could be built over Sojourn eliminating all students from crossing at the street level and would not disrupt any traffic flow.
- (3) This recommendation eliminates all students from walking or driving between campus and protects them from all weather elements. A shuttle bus already owned by the school could be driven by a coach or administrator (most coaches already have the prope driver license) and school liability insurance is already in place. Students who drive woul park on the main campus (and get the prime parking places) then ride the shuttle bus to gym. This also eliminates the additional twenty or so extra cars on the street which is alr busy, and students would not be late to their first period class.

Thank you, Becky Thompson 972-250-1801 hm

1543-SUP

PUBLIC HEARING. <u>Case 1543-SUP/Sherlock's</u>. Requesting approval of an amendment to an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, located at 5100 Belt Line Road (village on the Parkway), on application from Sherlock's, represented by Mr. Leo Parker of Parker Project Management and Construction.





Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

June 19, 2007

STAFF REPORT

RE: Case 1543-SUP/Sherlocks

LOCATION: 5100 Belt Line Road, Village on the

Parkway

REQUEST: Approval of an amendment to an

existing Special Use Permit for a

restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-

premises consumption

APPLICANT: Sherlocks, represented by Mr. Leo

Parker of Parker Project Management

and Construction

DISCUSSION:

<u>Background</u>. This lease space is located in Suite 776 of the Village on the Parkway Shopping Center. The restaurant was approved though Special Use Permit ordinance 002-011, approved by the City Council March 12, 2002. The restaurant has been in continuous operation since opening in 2002. At this point, Sherlocks is going to take in an adjacent lease space that is currently vacant. It is planning to convert the vacant lease space into additional women's restrooms and a storage space.

<u>Proposed Plan.</u> The existing restaurant is 8,979 square feet. However, for fire code purposes, the restaurant is divided into three spaces: the restaurant/pub portion at 4,776 square feet, the restaurant/live room at 3,156 square feet, and the game room at 1,047 square feet. These three spaces are separated by a fire wall that complies with the requirements of the Fire Code. The applicant is proposing to add 217 square feet to the restaurant/pub portion of the restaurant, which will take it to 4,993 square feet. The additional 443 square feet will be used as a storage space; however, the storage space can only be accessed from outside the restaurant.

<u>Fire Department.</u> The Fire Department has reviewed the plan, and since the restaurant/pub space is still less than 5,000 square feet, the Fire Department will not require that the space install a sprinkler system. However, the Department wants the

square footage verified by a registered architect so it can be sure that the restaurant/pub space is still less than 5,000 square feet.

<u>Façade</u>. The applicant is not proposing any changes to the exterior facades, but may paint the space the same color as its existing space.

<u>Parking</u>. The Village on the Parkway shopping center has a mixed use parking ratio of one space per 250 square foot for all uses. There is sufficient parking to accommodate this request. It should be noted that there are sometimes parking problems in this center, but they are more about the location of parking spaces than the supply of spaces. There are two lots on the southeast and southwest corners of this center that count toward required parking, but are virtually never used.

RECOMMENDATION:

Staff recommends approval of the amendment to the existing Special Use Permit for a restaurant and the Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following condition:

A registered architect shall verify that the restaurant/pub portion of the restaurant is still less than 5,000 square feet after the addition of the restrooms.

Respectfully submitted,

Carmen Moran

Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 28, 2007, voted to recommend approval of the request on application from Sherlocks, subject to the following conditions:

A registered architect shall verify that the restaurant/pub portion of the restaurant is still less than 5,000 square feet after the addition of the restrooms.

Voting Aye: Bernstein, Chafin, Daseke, Gaines, Jandura, Lay

Voting Nay: None Absent: Wood

Memorandum

To:

Carmen Moran, Director of Development Services

From: Gordon C. Robbins, Deputy Fire Chief

Date:

Monday, June 18, 2007

Re:

Case 1543-SUP/Sherlock's



The Fire Department has no comment on the amendment to the special use permit. However, the square footage of the occupancy after the addition will be sufficiently close to the 5000 sq. ft. limit that it will be necessary for a registered architect to certify the square footage on the construction plans submitted during the building permit process. Otherwise the fire sprinkler provisions in the base Fire and Building Codes will apply.

Thank you.

Council Agenda Item: #R11

SUMMARY:

Consideration and approval of award of bid to Brothers Heating & Air Conditioning Inc., for Heating, Ventilating, Air-Conditioning (HVAC) Annual Maintenance Services for all Town owned facilities.

FINANCIAL IMPACT:

Cost: \$89,652.00

Funds are budgeted and available in each department's operating budget.

BACKGROUND:

The Town contracts the annual maintenance of all Heating, Ventilating and Air-Conditioning systems (HVAC) for all Town owned facilities. This annual service provides all labor necessary to inspect, install replacement parts, repair and service all HVAC equipment, to maintain it in good operating condition for the full term of the contract. Regularly scheduled maintenance is performed every 60 days.

This contract shall be in effect for a period of one year. Upon mutual agreement of both parties, the annual contract from this bid may be extended for two (2) additional twelve (12) month periods, compensation for such extension shall be the same as for the original period of the contract.

The Purchasing division sent out notifications to contractors through DemandStar with 10 contractors obtaining specifications. We received four bids. One bid was disqualified for non-signing of their bid. Brothers Air Conditioning, Inc. was the low responsible bidder for this contract. Brothers Air Conditioning, Inc. has previously worked for the Town and has always done a good job.

RECOMMENDATION:

Staff recommends awarding the contract in the amount of \$89,652 to Brothers Air Conditioning, Inc., for HVAC services.

Attachments: Bid Tab

HVAC Maintenance - Annual Contract #R11 Bid No. 07-16

DUE: June 25, 2007 2:00 PM

BIDDER	Bid Bond	Signed	Total Bid
Brothers Air Conditioning	у	у	\$89,652.00
American Mechanical Services	у	у	\$123,636.00
Brandt Service	n	у	\$162,823.18
Decker Mechanical	n	n	\$269,800.00

Shanna N. Sims

Shanna N. Sims, Strategic Services Manager

Katie H. Roller

Witness

Council Agenda Item #R12

SUMMARY:

This item is consideration of a Non-Standard Lighting Agreement with Oncor (TXU) to install street lighting fixtures in the Oaks North subdivision that are not a type normally used by TXU.

FINANCIAL IMPACT:

Budgeted Amount: \$0

Cost: \$0

Funding Source: N/A

BACKGROUND:

Whenever a municipality desires that Oncor install street lighting poles and fixtures not currently available (Non-Standard), several conditions must be met. In addition to the requested street light meeting all Oncor engineering requirements, the municipality must enter into a Non-Standard Lighting Fixture Agreement with Oncor.

This agreement specifies that Oncor will install, own and maintain the non-standard fixtures. It requires that the Town pay Oncor, in advance, the installation costs for the non-standard fixtures. It also requires that the Town provide a replacement light if an existing light were knocked down.

RECOMMENDATION:

Staff recommends that Council authorize the City Manager to enter into the attached Non-Standard Lighting Fixture Agreement with Oncor for the installation and maintenance of a new street lighting system in the Oaks North subdivision.

NON-STANDARD LIGHTING FIXTURE AGREEMENT - TWO PARTY

day of	'ANDARD LIGHTING FIXTURE AGREEMENT ("Agreement") is entered into, effective this, 200_, by and between TXU Electric Delivery Company, a Texas corporation ("Company"), Texas, a municipal corporation (the "Customer").
	Recitals
a. Where to the provision	eas, Customer desires that Company install street lighting fixtures in, pursuant as of Company's Tariff for Retail Delivery Service ("Tariff"); and
b. Where normally used be	eas, Customer has requested that Company install street lighting fixtures that are not of a type by Company ("Non-Standard Fixtures").
NOW, THERE consideration of	FORE, Company and the Customer, in consideration of the mutual benefits to be obtained and in f the covenants and conditions contained herein, agree as follows:
1. Install the following co	ation and Ownership. Company will install, own, and maintain the Non-Standard Fixtures under onditions:
(a)	Customer provides detailed specifications of the proposed Non-Standard Fixtures to Company for review at least <u>30</u> days prior to the requested date of installation.
(b)	Customer receives written authorization for use of the Non-Standard Fixtures from Company.
(c)	Company purchases and delivers the Non-Standard Fixtures to a site designated by Customer prior to the scheduled installation date. Customer pays the Company in advance of order the total cost of the non-standard fixture.
2. Install any, pursuant to	ation Costs. Customer shall pay to Company the installation costs for the Non-Standard Fixtures, if the provisions of the Tariff.
3. Mainte	enance. Company will maintain the Non-Standard Fixtures in accordance with the Tariff.
4. Replace or repair the No to one of the fol	cement. In the event a Non-Standard Fixture needs to be replaced or repaired, Company will replace on-Standard Fixture, as directed by the Customer or the Customer's retail electric provider, pursuant lowing options:
(a)	Replace the Non-Standard Fixture or a portion thereof with a compatible replacement fixture or parts of a fixture provided to the site by Customer;*
(b)	Replace the Non-Standard Fixture with a fixture of a type normally used by Company, which, in Company's sole discretion, most closely matches the Non-Standard Fixture; or
(c)	Replace the Non-Standard Fixture with the least expensive standard fixture that Company has in stock at the time of replacement.
* In the event the right to repla	the Customer is unable to provide a replacement fixture in a timely manner the Company reserves are the Non-Standard fixture pursuant to sections (b) or (c) above in order to meet regulatory

5. Replacement Costs. To the extent Customer directs Company to replace a Non-Standard Fixture pursuant to Section 4(b) above or Company replaces a Non-Standard fixture with a fixture per 4(b) or (c) above, in order to meet regulatory requirements, Customer shall pay Company for the replacement fixture pursuant to the provisions of

requirements.

the Tariff. If Customer later requests Company to remove a fixture installed pursuant to Section 4(b) or (c) above and replace with Customer's Non-Standard Fixture, Customer shall also pay Company to make such a replacement.

6. Charges for Lighting Service. Company will charge the Customer's retail electric provider for lighting service for the Non-Standard Fixtures pursuant to Schedule A of Company's Lighting Service Rate Schedule set forth in the Tariff.

7. Other Provisions.

- (a) Assignment. No party may assign this Agreement without the prior written consent of the other parties, except that any party may, without such consent, assign this Agreement to any affiliate, wholly-owned subsidiary, or parent company of such party. Subject to the foregoing provision of this paragraph, this Agreement is binding on the parties' successors and assigns.
- (b) Entire Agreement; Modifications. This Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the Non-Standard Fixtures as described herein and supersedes all prior and contemporaneous agreements and understandings of the parties in connection with the Non-Standard Fixtures. No statements, agreements, understandings, representations, warranties or conditions not expressed in this Agreement will be binding upon the parties hereto, or will be effective to interpret, change, or restrict the provisions of this Agreement unless such are in writing signed by both parties hereto and by reference made a part hereof.
- (c) <u>Effect of this Agreement</u>. In the event of a conflict between the terms of this Agreement and the Tariff, the provisions of the Tariff shall control.
- (d) <u>Headings</u>. The headings in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope of intent of this Agreement or the intent of any provision contained herein.
- (e) <u>Purchase of Fixtures</u>: The provisions allowed for in Section 1(c) above are offered on a one-time basis only and will not be provided on future projects.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the dates below their respective signatures.

TXU ELECTRIC DELIVERY COMPANY	[CUSTOMER]
Ву:	Ву:
Name:	Name:
Title:	Title:
Date:	Date:

Council Agenda Item: #R13

SUMMARY:

This item is consideration of an Agreement between the Town of Addison and Oncor (TXU Electric Delivery) for the purchase and installation of street lights in the Oaks North subdivision.

FINANCIAL IMPACT:

Budgeted Amount: \$140,000

Cost: \$140,000

Funding Source: Funds available in the 2006-2007 Street Department Operations Budget

BACKGROUND:

Public Works, Oncor and the Oaks North Homeowners Association (ONHA) have been working for several months on a new street lighting system for the Oaks North subdivision. The basic lighting system will include 21 new street light poles and fixtures for a total cost of \$108,662. This includes the sample street light on Oaks North Drive (already paid for), and 20 additional streets lights (\$97,260) throughout the subdivision.

Staff is currently working with the ONHA and residents living on cul-de-sac streets in the subdivision to add additional street lights where desired. This could include between 6 and 9 additional Street lights. Oncor has given the Town a cost proposal of approximately \$4,000 each for the additional street lights.

As this project progresses with certain lighting locations still in question, Staff is seeking flexibility to design the project to the desires of the neighborhood within the confines of the current budget. Specifically, authorization to proceed by spending up to the \$140,000 budgeted amount.

RECOMMENDATION:

Staff recommends Council authorize the City Manager to enter into a contract with Oncor for \$97,260 to purchase and install 20 street lights in the Oaks North subdivision, and authorize additional cul-de-sac street lighting (locations yet to be finalized) with the total lighting project not to exceed the original \$140,000 project budget.



TXU Electric Delivery 14400 Josey Lane Farmers Branch, TX 75234

#R13

June 12, 2007

Mr. Robin Jones City of Addition 16801 Westgrove Drive P.O. Box 9010 Addison, Texas 75001

Re: Install 20-17ft. Kim Street Light 175w.mh 120v. (non-standard) located in the Oaks North Addition in Addison.

Dear Mr. Jones,

Enclosed, please find a Discretionary Service Agreement with TXU Electric Delivery Company and a statement of charges in the amount \$97,260.00 for the provision of discretionary services for the above referenced project. Please execute the agreement in the area designated as Accepted by Customer and return the agreement to this office along with your remittance in the amount indicated above.

If you have any questions regarding this matter, please call (972) 888-1317.

Enclosures



REMIT TO and MAKE CHECK PAYABLE TO:

TXU Electric Delivery

14400 Josey Lane Farmers Branch, Texas 75234

Attn: Jodie Smith

Fax: (972) 888-1304

Statement of Charges

Customer:

Name: City of Addison

Address: 16801 Westgrove Drive (P.O. Box 9010)

City: Addison State: Texas Zip: 75001

ATTN: Mr. Robin Jones

Date: Tuesday, June 12, 2007

Qty	Description	Unit Price	Total
20	17ft. Kim Street Light 175w. mh, 120v. (non-standard)		\$97,260
		Total Due	,
		Upon Receipt	\$97,260

- ⇒ Remit payment to the above address.
- ⇒ Please include the WR # on your check.
- ⇒ If you have any questions about this Statement of Charges please contact Jodie Smith at (972) 888-1317.

(2005 Statement of Charges.doc) MHorak June 2005

Tariff for Retail Delivery Service TXU Electric Delivery Company

6.3 Agreements and Forms

Applicable: Entire Certified Service Area

Effective Date: January 1, 2002

Page 11 of 23 Revision: Original

(b) If to Customer:
City of Addison
Attention: Mr. Robin Jones
16801Westgrove Dr. (P.O. Box 9010)
Addison, Texas 75001-9010

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other.

10. **Invoicing and Payment** – Invoices for any discretionary services covered by this Agreement will be mailed by Company to the following address (or such other address directed in writing by Customer), unless Customer is capable of receiving electronic invoicing from Company, in which case Company is entitled to transmit electronic invoices to Customer.

City of Addison Attention: Mr. Robin Jones 16801Westgrove Dr. (P.O. Box 9010) Addison, Texas 75001-9010

If Company transmits electronic invoices to Customer, Customer must make payment to Company by electronic funds transfer. Electronic invoicing and payment by electronic funds transfer will be conducted in accordance with Company's standard procedures. Company must receive payment by the due date specified on the invoice. If payment is not received by the Company by the due date shown on the invoice, a late fee will be calculated and added to the unpaid balance until the entire invoice is paid. The late fee will be 5% of the unpaid balance per invoice period.

- 11. No Walver -- The failure of a Party to this Agreement to Insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to walve the obligations, rights, or duties imposed upon the Parties.
- 12. **Taxes** -- All present or future federal, state, municipal, or other lawful taxes (other than federal income taxes) applicable by reason of any service performed by Company, or any compensation paid to Company, hereunder must be paid by Customer.
- 13. Headings -- The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.
- 14. **Multiple Counterparts** -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

Other Terms and Conditions – N/A.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be sign by their respective duly authorized representatives.

TXU Electric Delivery Company	The City of Addison
BY: Jodie Smith	ву:
TITLE: Project Management Design Services	TITLE:
DATE: June 12, 2007	DATE:

6.3 Agreements and Forms

Applicable: Entire Certified Service Area

Effective Date: January 1, 2002

Page 10 of 23 Revision: Original

6.3.4 Discretionary Service Agreement

This Discretionary Service Agreement ("Agreement") is made and entered into this 20th day of December, 2004, by TXU Electric Delivery ("TXU Electric Delivery Company" or "Company"), a Texas corporation and distribution utility, and The City of ADDISON ("Customer"), a company [specify whether individual or corporation, and if corporation name state, municipal corporation, cooperative corporation, or other], each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties". In consideration of the mutual covenants set forth herein, the Parties agree as follows:

- 1. **Discretionary Services to be Provided** -- Company agrees to provide, and Customer agrees to pay for, the following discretionary services in accordance with this Agreement. [Specify below or in an attached exhibit the discretionary service(s) to be provided, the applicable rate schedule(s), the location at which discretionary service(s) will be provided, and any supplemental terms and conditions applicable to such service(s).] <u>Install 20-17ft. non-standard Kim street light 175w. 120v. luminarie in the Oaks North Addition in ADDISON.</u>
- 2. Nature of Service and Company's Retail Delivery Service Tariff -- Any discretionary services covered by this Agreement will be provided by Company, and accepted by Customer, in accordance with applicable Public Utility Commission of Texas ("PUCT") Substantive Rules and Company's Tariff for Retail Delivery Service (including the Service Regulations contained therein), as it may from time to time be fixed and approved by the PUCT ("Company's Retail Delivery Tariff"). During the term of this Agreement, Company is entitled to discontinue service, interrupt service, or refuse service initiation requests under this Agreement in accordance with applicable PUCT Substantive Rules and Company's Retail Delivery Tariff. Company's Retail Delivery Tariff is part of this Agreement to the same extent as if fully set out herein. Unless otherwise expressly stated in this Agreement, the terms used herein have the meanings ascribed thereto in Company's Retail Delivery Tariff.
- 3. **Discretionary Service Charges** -- Charges for any discretionary services covered by this Agreement are determined in accordance with Company's Retail Delivery Tariff. Company and Customer agree to comply with PUCT or court orders concerning discretionary service charges.
- 4. **Term and Termination** -- This Agreement becomes effective when executed by both and continues in effect until the project is completed. Termination of this Agreement does not relieve Company or Customer of any obligation accrued or accruing prior to termination.
- 5. **No Other Obligations** -- This Agreement does not obligate Company to provide, or entitle Customer to receive, any service not expressly provided for herein. Customer is responsible for making the arrangements necessary for it to receive any further services that it may desire from Company or any third party.
- 6. Governing Law and Regulatory Authority -- This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to all valid, applicable federal, state, and local laws, ordinances, and rules and regulations of duly constituted regulatory authorities having jurisdiction.
- 7. Amendment --This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties. But changes to applicable PUCT Substantive Rules and Company's Retail Delivery Tariff are applicable to this Agreement upon their effective date and do not require an amendment of this Agreement.
- 8. Entirety of Agreement and Prior Agreements Superseded -- This Agreement, including all attached Exhibits, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the service(s) expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation N/A [specify any prior agreements being superseded], and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.
- 9. **Notices --** Notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, to:
 - (a) If to Company:
 Jodie Smith
 TXU Electric Delivery Company
 !4400 Josey Lane
 Farmers Branch, Texas 75234

Council Agenda Item: #R14

SUMMARY:

This item is for Council approval of Change Order No. 2, in the amount of \$61,242.60, for various items associated with the Paving and Drainage Improvements to Addison Road.

FINANCIAL IMPACT:

 Original Contract Amount:
 \$2,076,920.33

 Change Order No. 1:
 \$ 6,386.98

 Proposed Change Order No. 2:
 \$ 61,242.60

 Total Contract Amount
 \$2,144,549.91

Source of Funds:

\$2,500,000 was funded for Addison Road improvements from General Obligation Bonds. From this amount, \$1,494,000 was established for Construction. Additionally, Dallas County has agreed to reimburse the Town of Addison for 50% of the construction cost for items considered essential infrastructure or \$804,824.92 of the original contract. Dallas County will also reimburse the Town at the same rate for all Change Order items considered essential infrastructure. The total contribution from Dallas County must not to exceed \$1,389,465.

Project Budget Item	Project Budget	*Amount Encumbered	Remaining Budget
Construction (TOA)	\$1,434,000.00	\$1,339,724.99	\$94,275.01
Construction (Dallas Co.)	\$ 804,824.92	\$ 804,824.92	**\$ 0.00
Contractor Incentive	\$ 60,000.00	\$ 60,000.00	\$ 0.00
TOTAL	\$2,298,824.92	\$2,204,549.91	\$94,275.01

^{*}Includes all Change Orders to date.

BACKGROUND:

At the January 9, 2007 Council meeting, Council authorized the City Manager to execute a Construction contract with JRJ Paving, L.P. in the amount of \$2,076,920.33 with a contract duration of 304 calendar days for the Addison Road Paving and Drainage Improvements project - Phase I. JRJ was issued a Notice to Proceed on January 30, 2007.

Change Order No. 2 includes various items that are associated with four primary issues. These issues include construction of a temporary asphalt driveway for the car wash, installation of a new 8" water line that will replace existing 8" and 6" lines that were found to be too shallow, lowering of existing traffic signal conduit found to be too shallow, and installation of asphalt millings in the Addison Service Center storage yard to reduce mud tracking during rain events. This Change Order also accounts for the cost associated with replacing the originally proposed Crepe Myrtles with Highrise Live Oak trees and removes the pedestrian lighting in front of the Minol Center due to the sidewalk in the area being removed as part of Change Order No. 1. Brief explanations of each item are also attached.

^{**}Upon Change Order Approval, staff will apply to Dallas County for reimbursement totaling \$13,013.79 for Change Orders 1 & 2.

RECOMMENDATION:

Staff recommends Council authorize the City Manager to execute Change Order No. 2, in the amount of \$61,242.60, for various items associated with the Paving and Drainage Improvements to Addison Road.

ATTACHMENTS:

Change Order No. 1 with itemized explanation Change Order No. 2 with itemized explanation



TOWN OF ADDISON CHANGE ORDER FORM

Change Order Number	One (1)
Project Name	Addison Rd. Widening Ph. I
Project Number (s)	2005-04-14
Project Manager	Aaron Russell, P.E.
Date	June 28, 2007

A. INTENT OF CHANGE ORDER

Increase contract amount to account for additional costs associated with design changes. Reduce contract time due to approved construction phasing change.

B. DESCRIPTION OF CHANGE

Various items, reference itemized list. Reduce contract time due to approved construction phasing change.

C. REASON FOR CHANGE

Account for additional costs associated with design change in response to utility conflicts, desired construction detail changes, and remove traffic control barricades to accommodate a special event.

D. EFFECT OF CHANGE ON CONTRACT PRICE

This change order will have the following effect on the cost of this project:

1					
	Remove and Replace Traffic Control Barricades	1	LS	\$2,235.00	\$2,235,00
2	Add Poly sleeves to Water Service Replacement	2	EA	\$894.00	
3	Construct 4' Dia. Standard Sanitary Sewer Manhole		EA	\$2,520.00	\$1,788.0
4	Install Reinf. Concrete Pipe Class III-18-Inch	25	LF		\$2,520.0
5	Replace 8" San Sewer by Open Cut (9' Depth)	10	LF	\$58.80	\$1,470,00
6	Furnish & Place 10" Reinf. Conc. (Class K)	265	SY	\$567.00	\$5,670,0
7	Furnish & Place 8" Concrete Drive (Class K)	45	SY	S57.75	\$15,303.7
8	Furnish Reinforced Concrete Barrier-Free Ramps	27	SY	\$58.86	\$2,648.7
9	Furnish 10" Stamped/Dyed Conc. (4,000 psi)	360		\$119.23	\$3,219.2
10	Furnish & Place 10" Reinf. Conc. (4,000 psi)	192	SY	\$104.68	\$37,684.8
11	Full Depth Concrete Sawcut	192	SY	\$48.81	\$9,371.52
12	Furnish Place & Compact Flex Base Material	1.000	L.F	\$3.85	\$750.75
13	Unclassified Street Excavation	43	CY	\$52.21	\$2,245.03
14	Furnish & Place 6" Reinforced Conc. Curb (Class K)	121	CY	\$10.01	\$1,211.21
15	Concrete Demolition & Removal	50	LF	\$3.62	\$181.00
16	Add Steel Reinf, due to Storm Sewer Junction Box	3293	SF	\$1.00	\$3,293.00
	ridd ofeer Renn, dde to Storm Sewer Junction Box	1	LS	\$500.00	\$500,00
TOUCT	IONS	AD	DITIONS	SUBTOTAL	\$90,091.9
17	Furnish & Place 10" Reinf. Conc. (4,000 psi)	265	SY	\$48,81	\$12,934.65
18	Furnish & Place 8" Concrete Drive (4000 psi)	45	SY	\$53.30	\$2,398.50
19	Furnish and Placing Crosswalk Pavers	245	SY	\$96.93	\$23,747.85
20	Furnish and Plant Crepe Myrtles (65 Gallon)	6	EA	\$262.32	\$1,573.92
21	Furnish and Plant Loropetalum Bush (5-Gallon)	76	EA	\$15.40	\$1,170,40
22	Furnish & Place 4" Reinforced Concrete Sidewalk	187	SY	\$40.05	
23	Furnishing and Installing Water Service Lines	16	EA	\$2,037.00	\$7,489.35
24	Removal of Existing Trees (3" - 12" in Dia)	4	EA	\$412.08	\$32,592.00
25	Furnish & Place 6" Reinforced Conc. Curb (4000 psi)	50	LF	\$3.00	\$1,648.32
	(1000).2)			UBTOTAL	\$150,00
				ER TOTAL	\$83,704.99

TOWN OF ADDISON CHANGE ORDER FORM

Original Contract Amount	\$2,076,920.33
Total Contract Amount (Including Previous Change Orders)	\$2,076,920.33
Amount of this Change Order	\$6,386.98
Revised Contract Amount	\$2,083,307.31
Total % Increase/Decrease (Including Previous Change Orders)	0.31%

E. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change will add the following time to the contract:

Original Contract Time (in days)	304	
Total Contract Time Including Previous Change Orders (in days)	304	
Increase/Decrease in Time from this Change Order (in days)	-12	
Revised Contract Time (in days)	292	

F. AGREEMENT

By the signatures below, duly authorized agent of the Town of Addison, TX and

JRJ Paving, L.P.

do hereby agree to append this Change Order Number themselves, dated February 19, 2007

One (1) to the original contract between

JRJ Paving, L.P.

Denton, TX 76207

2277 N. Masch Branch Road

Phone:

(214) 466-8340

Fax: (24) 466-8352

Marty Surply, JRJ Paving

John Birkhoff, P.E., Design Engineer

Aaron Russell, P.E., Project Manager

Nancy Cline, PE Director of Public Works

ravec, Director of Finance

Chris Terry, Assistant City Manager

Copies:

Contractor (2)

Department

City Secretary

Strategie Services Manager

Council Agenda:

(if applicable)

Agenda Date

Item No.

Approved

N/A N/A N/A

em No.	THE RESIDENCE OF THE PROPERTY	Explanation
1	Remove and Replace Traffic Control Barricades	Remove barricades for MS Walk
2	Add Poly sleeves to Water Service Replacement	Added protection for water services
		MH at the South end of the San Sewer line for
3	Construct 4' Dia. Standard Sanitary Sewer Manhole	access
		Additional pipe due to relocation of inletsCE3
4	Install Reinf. Concrete Pipe Class III-18-Inch	and CE
		Repair damaged San Sewer Main found during
5	Replace 8" San Sewer by Open Cut (9' Depth)	TV
		Placed to allow for opening C-Store Driveway
		sooner before Taste of Addison (Replaces CO
6	Furnish & Place 10" Reinf. Conc. (Class K)	Item 17)
		Placed to allow for opening C-Store Driveway
		sooner before Taste of Addison (Replaces CO
7	Furnish & Place 8" Concrete Drive (Class K)	Item 18)
		Additional due to right turn lane addition at
8	Furnish Reinforced Concrete Barrier-Free Ramps	Arapaho
		Replace CO Item 19 with additional quantity du
9	Furnish 10" Stamped/Dyed Conc. (4,000 psi)	to right turn lane addition at Arapaho
-		Added quantity due to right turn lane addition at
10	Furnish & Place 10" Reinf. Conc. (4,000 psi)	Arapaho
		Added quantity due to right turn lane addition at
11	Full Depth Concrete Sawcut	Arapaho
		Added quantity due to right turn lane addition at
12	Furnish Place & Compact Flex Base Material	Arapaho
	·	Added quantity due to right turn lane addition at
13	Unclassified Street Excavation	Arapaho
		Placed to allow for opening C-Store Driveway
		sooner before Taste of Addison (Replaces CO
14	Furnish & Place 6" Reinforced Conc. Curb (Class K)	Item 25)
		Removal of existing concrete associated with
15	Concrete Demolition & Removal	additional right turn lane at Arapaho
		Add reinforcement and expansion jounts to
		paving above the Junction Box in the Arapaho
16	Lower Storm Sewer Junction Box 2.0'	Intersection.
17	Furnish & Place 10" Reinf. Conc. (4,000 psi)	Replaced by CO Item 6
18	Furnish & Place 8" Concrete Drive (4000 psi)	Replaced by CO Item 7
19	Furnish and Placing Crosswalk Pavers	Replaced by CO Item 9
	TO PAGE TO A PAG	Removal due to deletion of sidewalk in front of
20	Furnish and Plant Crepe Myrtles (65 Gallon)	the Minol Center
		Removal due to deletion of sidewalk in front of
21	Furnish and Plant Loropetalum Bush (5-Gallon)	the Minol Center
22	Furnish & Place 4" Reinforced Concrete Sidewalk	Removal of sidewalk in front of the Minol Center
23	Furnishing and Installing Water Service Lines	Quantity Adjustment
	The state of the prince	Removal due to deletion of sidewalk in front of
		the Minol Center (less addition of one in front of
24	Removal of Existing Trees (3" - 12" in Dia)	the C-Store)
25	Furnish & Place 6" Reinforced Conc. Curb (4000 psi)	Replaced by CO Item 14



TOWN OF ADDISON CHANGE ORDER FORM

Change Order Number	Two (2)
Project Name	Addison Rd. Widening Ph. I
Project Number (s)	2005-04-14
Project Manager	Aaron Russell, P.E.
Date	June 29, 2007

A. INTENT OF CHANGE ORDER

Increase contract amount to account for additional costs associated with design changes. Reduce contract time due to approved construction phasing change.

B. DESCRIPTION OF CHANGE

Various items, reference itemized list.

C. REASON FOR CHANGE

Account for additional costs associated with design change in response to utility conflicts, desired construction detail changes, and landscaping changes.

D. EFFECT OF CHANGE ON CONTRACT PRICE

This change order will have the following effect on the cost of this project:

Item No.	Description	Quantity	Unit	Unit Price	Total
DDITIO	NS	-			
1	Unclassified Street Excavation	42	CY	\$10.01	\$420.42
2	Traffic Signal Conduit Relocation	1	LS	\$6,633.00	\$6,633.00
3	Furnish and Install 8-Inch PVC Water Line	115	LF	\$97.90	\$11,258.50
4	Furnish & Install 4" Caliper Highrise Live Oak Trees	36	EA	\$704.00	\$25,344.00
5	Furnish & Install Electrical Wiring for Parking Lights	1	LS	\$1,969.00	\$1,969.00
6	Cut & Plug Water Service at Water Main	2	EA	\$2,037.00	\$4,074.00
7	Furnish and Install 8-Inch Tap on 10" Main	1	EA	\$6,930.00	\$6,930.00
8	Furnish and Install 8-Inch Tap on 8" Main	1	EA	\$4,510.00	\$4,510.00
9	Cut & Plug Water 6" Water Main	1	EA	\$2,640.00	\$2,640.00
10	Cut & Plug Water 8" Water Main	2	EA	\$1,700.00	\$3,400.00
11	Concrete Removal	150	SF	\$1.00	\$150.00
12	Furnish 4" Thick, Sandblasted & Scored Sidewalk	150	SF	\$20.00	\$3,000.00
13	Furnish & Place 6" Reinforced Conc. Curb (4000 psi)	20	LF	\$3.00	\$60.00
14	Remove & Replace concrete pavement	40	SY	\$80.30	\$3,212.00
15	8" Water Line Testing	115	LF	\$15.40	\$1,771.00
16	6" Gate Valve	1	EA	\$1,043.00	\$1,043.00
17	Unclassified Excavation & Knockdown (SC Yard)	580	CY	\$12.24	\$7,099.20
18	Asphalt Millings	580	CY	\$5.00	\$2,900.00
19	Asphalt Millings Base Const. & Comp. (SC Yard)	580	CY	\$5.65	\$3,277.00
20	Furnishing and Installing Water Service Lines	1	EA	\$2,037.00	\$2,037.00
EDUCE	TO NO	A	DDITIONS	SUBTOTAL	\$91,728.12
EDUCTI 21	Furnish and Install Pedestrian Fixture SB	4	EA	\$4,252.50	\$17,010.00
22	Furnish and Planting Crepe Myrtles	36	EA	\$262.32	\$9,443.52
23	Furnish Lt. Foundation, Pull Box & Grounding Rod	4	EA	\$1,008.00	\$4,032.00
		DEL	OUCTIONS	SUBTOTAL	\$30,485.52
		СН	ANGE OR	DER TOTAL	\$61,242.60



Copies:

Contractor (2)

City Secretary

Strategic Services Manager

Department

TOWN OF ADDISON CHANGE ORDER FORM

	Original Contract Amount	\$2,076,920.33
	Total Contract Amount (Including Previous Change Orders)	\$2,083,307.31
	Amount of this Change Order	\$61,242.60
	Revised Contract Amount	\$2,144,549.91
	Total % Increase/Decrease (Including Previous Change Orders)	3.26%
E. EFFECT	OF CHANGE ON CONTRACT TIME	
	quired under this change will add the following time to the contract:	
	Original Contract Time (in days)	304
	Total Contract Time Including Previous Change Orders (in days)	292
	Increase/Decrease in Time from this Change Order (in days)	
	Revised Contract Time (in days)	292
F. AGREE	MENT .	
themselves, o	L.P.	JRJ Paving, L.I
JRJ Paving, 2277 N. Mas Denton, TX Phone:	ree to append this Change Order Number Two (2) to the original condated February 19, 2007 L.P. sch Branch Road	
themselves, of JRJ Paving,	Two (2) to the original condated February 19, 2007 L.P. sch Branch Road 76207 (214) 466-8340 (214) 466-8352	
themselves, of JRJ Paving, 2277 N. Mas Denton, TX Phone:	Two (2) to the original condated February 19, 2007 L.P. sch Branch Road 76207 (214) 466-8340 (214) 466-8352	
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Council Agenda:

(if applicable)

Agenda Date

Item No.

Approved

July 10, 2007

Excavation for Temp. Asphalt Drive for the Car Wash. Lower existing conduit in the Arapaho intersection due to the change in street grade on the Southeast corner and the Northwest Corner. New water line to replace 8" & 6" water lines that cross Addison Rd. that are too shallow (in front of the Car Wash) Furnish and Install 8-Inch PVC Water Line Turnish and Install Electrical Wiring for Parking Lights Cut & Plug Water Service at Water Main Cut & Plug Water Service at Water Main Furnish and Install 8-Inch Tap on 10" Main Furnish and Install 8-Inch Tap on 8" Main Cut & Plug Water 6" Water Main	Item No.	Item Description	Explanation
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16 Jo Gate Valve Itoo shallow (in front of the Car Wash)	16	6" Gate Valve	too shallow (in front of the Car Wash)
Cut existing dirt to accommodate new asphalt			Cut existing dirt to accommodate new asphalt
17 Unclassified Excavation & Knockdown (SC Yard) millings	17	Unclassified Excavation & Knockdown (SC Yard)	
18 Asphalt Millings Asphalt millings for SC yard			
Construction of Asphalt Millings base for SC			
19 Asphalt Millings Base Const. & Comp. (SC Yard) Yard.	19	Asphalt Millings Base Const. & Comp. (SC Yard)	^ ~
		<u> </u>	
20 Furnishing and Installing Water Service Lines Connect existing meters to new 8" water main.	20	Furnishing and Installing Water Service Lines	Connect existing meters to new 8" water main.
Delete pedestrian lights in front of the Minol			
21 Furnish and Install Pedestrian Fixture SB Center because the sidewalk was deleted.	21	Furnish and Install Pedestrian Fixture SB	
22 Furnish and Planting Crepe Myrtles Change Crepe Myrtles to Highrise Live Oaks			
Delete pedestrian lights in front of the Minol			
Furnish Lt. Foundation, Pull Box & Grounding Rod Center because the sidewalk was deleted.	23	Furnish Lt. Foundation, Pull Box & Grounding Rod	Center because the sidewalk was deleted.

Council Agenda Item: #R15

SUMMARY:

Council approval is requested of a resolution denying a request from Atmos Energy Corporation-Mid Tex Division (the Company) for an annual (2006) gas reliability infrastructure program (GRIP) rate increase for customers on the Company's statewide gas utility system.

FINANCIAL IMPACT:

Approval of the ordinance would have no direct financial impact to the Town. Costs associated with the Town participating with the Atmos Cities Steering Committee (ACSC) will be reimbursed by the Company, which will then pass those costs to their gas customers.

BACKGROUND:

It has been a long-standing policy of the Town to protect the interests of its residents and businesses in any utility rate case. The Company has filed a GRIP request every year since it acquired the gas distribution system from TXU. GRIP was originally enacted by the Texas Legislature in 2003 to allow gas utilities an opportunity to recover costs associated with replacing aging portions of natural gas pipeline to enhance reliability and public safety without the necessity of a full blown rate case. However, the Company has used the statute to recover any change in invested capital. As a result, the Company has surcharged items not related to system safety or reliability, including furniture, artwork, computers, air conditioners, new parking lots as well as first class airfare and luxurious accommodations for executives and their spouses, hundreds of thousands of dollars in lavish meals, liquor, employee gifts, limousine travel, and charitable contributions.

Unfortunately the Texas Railroad Commission (RRC) has sided with the company on all its GRIP requests although they did disallow \$2.5 million of these expenses from the Company's recent rate case. This resolution would suspend implementation of the 2006 GRIP rate until the ACSC consultants have had an opportunity to study the Company's filing. Below is a summary of the impact to customer monthly bills of each GRIP rate.

					Cumulative
					Monthly
	2003 GRIP	2004 GRIP	2005 GRIP	2006 GRIP	Surcharge
Residential	\$0.29	\$0.29	\$0.51	\$0.59	\$1.68
Commercial	\$0.96	\$0.98	\$0.85	\$1.47	\$4.26
Industrial	\$31.85	\$26.85	\$78.47	\$28.74	\$165.91

RECOMMENDATION:

It is recommended Council approve the resolution suspending imposition of the 2006 GRIP rates.

TOWN OF ADDISON, TEXAS

#R15

RESOLUTION NO.

A RESOLUTION OF THE TOWN OF ADDISON, TEXAS SUSPENDING THE JULY 30, 2007 EFFECTIVE DATE OF THE PROPOSAL BY ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS") TO IMPLEMENT INTERIM GAS RELIABILITY INFRASTRUCTURE ("GRIP") RATE ADJUSTMENTS FOR GAS UTILITY INVESTMENT IN 2006; AUTHORIZING PARTICIPATION WITH THE ATMOS CITIES STEERING COMMITTEE ("ACSC") IN A REVIEW AND INQUIRY INTO THE SUFFICIENCY OF THE FILING AND THE BASIS OF THE PROPOSED RATE ADJUSTMENTS; AUTHORIZING INTERVENTION IN ADMINISTRATIVE AND COURT PROCEEDINGS INVOLVING THE **PROPOSED** GRIP **ADJUSTMENTS**; RATE REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT RATEMAKING COSTS BY ATMOS; AND REQUIRING DELIVERY OF THIS RESOLUTION TO ATMOS AND ACSC LEGAL COUNSEL.

WHEREAS, the Town of Addison, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or the "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

- WHEREAS, Atmos Mid-Tex made filings with the City and the Railroad Commission of Texas ("Railroad Commission") on or about May 31, 2007, proposing to implement interim rate adjustments ("GRIP rate increases"), pursuant to Texas Utilities Code § 104.301, on all customers served by Atmos Mid-Tex, effective July 30, 2007; and
- WHEREAS, Atmos Mid-Tex was recently granted a rate increase as a result of its filing in GUD No. 9670, in which the Final Order was only signed on March 29, 2007; and
- WHEREAS, in GUD No. 9670, it was determined that Atmos Mid-Tex had inappropriately included certain expenditures in its prior GRIP rate increases for rate years 2003, 2004, and 2005; and
- WHEREAS, it is incumbent upon the City, as a regulatory authority, to examine this latest GRIP (gas reliability infrastructure program) filing to determine its compliance with the Texas Utilities Code: and
- WHEREAS, ratepayers of Atmos Mid-Tex, including the City and its residents, will be adversely impacted by the proposed GRIP rate increases; and
- WHEREAS, it is advantageous for the City and its citizens to coordinate the City's response to Atmos' filing with similarly situated municipalities; and
- WHEREAS, the City has benefited from prior participation with the Atmos Cities Steering Committee ("ACSC"); and

WHEREAS, it is efficient and cost beneficial for the City to again coordinate review of the reasonableness of the proposed GRIP rate increases and joint participation in any proceedings at the Railroad Commission related to the proposed GRIP rate increases; and

WHEREAS, the Executive Committee of ACSC has recommended suspension and established a budget for evaluation of the Atmos filing; and

WHEREAS, a GRIP proceeding involves rate making, entitling cities to reimbursement of reasonable rate case expenses.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE **TOWN OF ADDISON, TEXAS:**

- Section 1. The July 30, 2007 effective date of the GRIP rate increases proposed by Atmos Mid-Tex is hereby suspended for the maximum period allowed by law to permit adequate time to investigate the sufficiency of the GRIP Rate Increase filing, review the proposed increases, analyze all necessary information, and take appropriate action related to the proposed increases.
- Section 2. The City is authorized to cooperate with ACSC to hire and direct legal counsel and consultants, to negotiate with the Company, to make recommendations to the City regarding the proposed GRIP rate increases, and to direct any administrative proceedings or litigation associated with the proposed GRIP rate increases.
- The City is authorized to intervene in any administrative proceedings or Section 3. litigation associated with the proposed GRIP rate increases.
- Atmos Mid-Tex shall promptly reimburse the City's reasonable costs Section 4. associated with the City's ratemaking activities related to the proposed GRIP rate increases.
- A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Charles Section 5. R. Yarbrough, II, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, legal counsel to ACSC, at Lloyd Gosselink, 816 Congress Avenue, Suite 1900, Austin, Texas 78701.
 - This Resolution shall take effect upon its passage and approval. Section 6.

PASSED AND APPROV	ED by the City Council of the Town of Addison, Texas this 07.
	Joe Chow, Mayor
ATTEST:	
By: Mario Canizares, City Sec	 retary

APPROVED AS TO FORM:	
By:	
John Hill, City Attorney	

Council Agenda Item:#R16

SUMMARY:

Council approval is requested of a resolution that authorizes the Town to designate representatives that can transact business with the TexPool local government investment pool.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

BACKGROUND:

In addition to investing in individual securities, the Town also invests a portion of our investment portfolio in a local government investment pool known as TexPool. The pool invests primarily in short term securities maturing in less than 7 days, and Town funds are available at any time without penalty. As such, TexPool offers the Town a competitive short term investment yield with the added flexibility of immediate funds availability.

Due to the departure of the Assistant Director of Financial and Strategic Services, the list of authorized representatives with TexPool needs to be amended to delete the Assistant Director position and add the Financial Services Manager position. The Financial Services Manager is an authorized investment officer of the Town pursuant to the investment policy that was adopted by Council on September 12, 2006. To make these changes, TexPool requires that the City Council approve a resolution.

The Director of Financial and Strategic Services is also retained as an authorized representative that can conduct transactions with TexPool. The Director and Financial Services Manager are also currently authorized to conduct transactions with the Town's other investment pool known as TexSTAR.

RECOMMENDATION:

Staff recommends approval of the resolution that authorizes the Town to designate representatives that can transact business with the TexPool local government investment pool.



RESOLUTION AMENDING AUTHORIZED REPRESENTATIVES

WHEDEAS	1011	of Addison	(Location Number	77333
WHEREAS,	, own	or processor	<u> </u>	

(Participant Name & Location Number)

("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool ("TexPool/ Texpool *Prime*"), a public funds investment pool, were created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

- A. That the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexPool / TexPool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.
- B. That an Authorized Representative of the Participant may be deleted by a written instrument signed by all remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexPool / TexPool Prime account or (2) is no longer employed by the Participant; and
- C. That the Participant may by Amending Resolution signed by the Participant add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant;

List the Authorized Representatives of the Participant.	Any new ind	lividuals will be	issued persona	l identification
numbers to transact business with TexPool Participant	Services.	1	^	<u>. </u>

1. Name

Signature

Kandolph L. Moravec Title Vivedor of Financial and Star

Phone Number 972-450-7096

TEX - REP

	T / C . N
2. Name Brian Hogan	Title Financial Services Me
Signature Signature	Phone Number 972-450-7064
3. Name	Title
Signature	Phone Number
4. Name	Title
Signature	Phone Number
List the name of the Authorized Representative listed above that will transactions and receiving confirmations and monthly statements und	
Name Email bhogan@addizontx.gov	Fax Number 972-450-7096
In addition and at the option of the Participant, one additional Author perform only inquiry of selected information. This limited representa Participant desires to designate a representative with inquiry rights or	rized Representative can be designated to tive cannot perform transactions. If the
5. Name	Title
D. That this Resolution and its authorization shall continue in revoked by the Participant, and until TexPool Participant Services recrevocation. This Resolution is hereby introduced and adopted by the held on the 104h day	ceives a copy of any such amendment or
BY:	
Signature Ron Whitehe Printed Name Lity Manag Title	er
ATTEST:	
Signature	
Printed Name	res
Printed Name City Secret	ary

This document supersedes all prior Authorized Representative designations.

Council Agenda Item: #R17

SUMMARY:

Presentation of the Government Finance Officers Association (GFOA) "Distinguished Budget Presentation Award" for the fiscal year beginning October 1, 2006.

FINANCIAL IMPACT:

There is no financial impact associated with this recognition.

BACKGROUND:

The Government Finance Officers Association (GFOA) created a Distinguished Budget Presentation Award in 1984 to encourage governments to prepare budget documents of the highest quality to meet the needs of decision-makers and citizens.

In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, as an operations guide, as a financial plan and as a communications device.

The Town of Addison has received the Distinguished Budget Presentation Award every year since 1987 and has received notice that the annual budget for the Fiscal Year beginning October 1, 2006 has also received this distinction.

Council Agenda Item: #R18

SUMMARY:

Council approval is requested of an ordinance amending the Town's Annual budget for the fiscal year ending September 30, 2007.

FINANCIAL IMPACT:

There is no direct financial impact associated with this item. Details of the amendments are presented in the attached materials. Below is a summary of the changes in total revenues, expenditures, and fund balance.

	<u>Original</u>	<u>Amended</u>
Total Revenues	\$53,754,290	\$54,554,290
Decrease in Fund Balance	3,901,600	3,788,100
Total Appropriations	\$57,655,890	\$58,342,390

BACKGROUND:

The annual budget is a blueprint of how financial resources are expected to be received and appropriated throughout the fiscal year. Inevitably, as the year progresses, variances with the budget occur in the various categories of revenue and expenditures. Each year, Financial and Strategic Services reviews the budget to determine which items should be recognized with formal budget amendments. Although variances occur in almost every one of the hundreds of detailed financial line items the Town maintains, budget amendments are presented to Council for only a few major categories using the following primary criteria:

- Appropriations for major cost centers (departments) will be exceeded. Financial and Strategic Services staff maintains budget control over operating department expenditures. Excess expenditures in one category are usually addressed with transfers of surpluses in other categories. However, if the excess expenditures are so large that the total department budget will be exceeded, these items must be addressed with a budget amendment.
- ➤ Revenues are significantly less than budgeted. A material shortage in a particular category may impact the ability to fun certain programs or significantly reduce fund balance.

In other words, any variance that has a detrimental impact on the Town's finances is addressed with a budget amendment. Other amendments may be presented to Council that acknowledge major increases in revenues and/or reductions in expenditures. However, these items are usually presented in context with detrimental variances.

Major changes proposed for the 2007 budget are:

General Fund

- Recognize \$450,000 in additional revenues associated with increased interest earnings, court fines, and anticipated higher sales tax collections.
- In the Combined Services department, legal fees related to legislative issues (\$100,000) and expenses related to a staff management retreat (\$7,000) are expected to exceed the budgeted levels.
- In the Fire department, additional overtime expenditures (\$62,000) are expected due to vacancies. In addition, there have been some extensive vehicle repair costs (\$31,000) and building repair costs (\$13,000) that were not anticipated in the original development of the budget.

Hotel Fund

- Recognize \$300,000 in additional Hotel Occupancy taxes expected to be received by fiscal year end.
- Recognize \$100,000 in additional revenues related to the Taste Addison.
- Increase the Visitor Services budget by \$50,000 for the development of a promotional video for Addison hotels. This is expected to be presented to Council for approval in August.
- Due to the surge in attendance for Taste Addison, additional expenses of approximately \$63,000 in the Special Events department were needed for security, trash, sound, and a variety of related expenses.
- In the original budget, expenses related to the Music Man (\$47,000) event were incorrectly budgeted in the Performing Arts department. As such, a budget amendment is requested to move these funds to the Special Events department. This budget transfer has no net impact on the Hotel fund.

Airport Fund

• In the Airport fund, increase legal fees by \$140,000 related to unanticipated litigation expenses.

Exhibit A reflects the changes for all funds, Exhibit B details the proposed budget changes, and Exhibit C shows how the changes affect the individual funds.

RECOMMENDATION:

Staff recommends that Council approve the attached ordinance amending the Town's annual budget for the fiscal year ending September 30, 2007.

TOWN OF ADDISON GENERAL FUND SCHEDULE OF REVENUES BY SOURCE

Amended 2006-07 Annual Budge	t
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#R18		Original		Amended
	Actual	Budget		Budget
	2005-06	2006-07	Amendments	2006-07
Advalaram tayan				
Ad valorem taxes: Current taxes	¢ 0.404.624	\$ 9.374.970	¢	¢ 0.274.070
	\$ 8,484,631	+ -,,	\$ -	\$ 9,374,970
Delinquent taxes	15,128	10,050	-	10,050
Penalty & interest	46,763	23,460	-	23,460
Non-property taxes:	0.044.000	40 004 000	400.000	40 004 000
Sales tax	9,941,386	10,221,820	100,000	10,321,820
Alcoholic beverage tax	966,366	927,000	-	927,000
Franchise / right-of-way use fees:	4 500 000	4 000 040		4 000 040
Electric franchise	1,563,239	1,668,010	-	1,668,010
Gas franchise	241,378	225,000	-	225,000
Telecommunication access fees	720,807	665,000	=	665,000
Cable franchise	130,128	110,650	=	110,650
Street rental fees	7,236	8,000	-	8,000
Wireless network franchise	18,475	15,000	-	15,000
Licenses and permits:				
Business licenses and permits	159,589	149,570	-	149,570
Building and construction permits	491,819	375,330	-	375,330
Intergovernmental revenue	-	-	-	-
Service fees:				
General government	76,952	900	-	900
Public safety	767,114	690,460	-	690,460
Urban development	8,840	4,690	-	4,690
Streets and sanitation	206,134	271,250	-	271,250
Recreation	71,253	68,960	-	68,960
Interfund	166,400	165,010	-	165,010
Court fines	1,071,624	893,000	150,000	1,043,000
Interest earnings	378,492	340,000	150,000	490,000
Rental income	122,622	144,000	-	144,000
Other	178,968	37,500		37,500
TOTAL REVENUES	\$ 25,835,344	\$ 26,389,630	\$ 400,000	\$ 26,789,630

TOWN OF ADDISON GENERAL FUND

STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amended 2006-07 Annual Budget	Amend	ed 2006-07	Annual	Budget
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	21menueu 2000-07 21mm			A manadad		
		Original	Amended			
	Actual	Budget		Budget		
	2005-06	2006-07	Amendments	2006-07		
BEGINNING BALANCE	\$ 7,050,505	\$ 7,715,900	\$ 459,280	\$ 8,175,180		
REVENUES:						
Ad valorem taxes	8,546,522	9,408,480	_	9,408,480		
Non-property taxes	10,907,752	11,148,820	100,000	11,248,820		
Franchise fees	2,681,263	2,691,660	-	2,691,660		
Licenses and permits	651,408	524,900	_	524,900		
Service fees	1,296,693	1,201,270	_	1,201,270		
Fines and penalties	1,071,624	893,000	150,000	1,043,000		
Interest earnings	378,492	340,000	150,000	490,000		
Rental income	122,622	144,000	100,000	144,000		
Other	178,968	37,500	_	37,500		
TOTAL REVENUES	25,835,344	26,389,630	400,000	26,789,630		
TOTAL REVENUES	25,655,544	20,369,030	400,000	20,769,030		
TOTAL RESOURCES AVAILABLE	32,885,849	34,105,530	859,280	34,964,810		
EXPENDITURES:						
General Government:						
City manager	1,282,061	1,118,180	73,000	1,191,180		
Financial & Strategic Services	1,006,195	961,610	-	961,610		
General services	800,035	753,070	25,000	778,070		
Municipal court	407,657	425,620	20,000	425,620		
Human resources	360,248	387,470	19,000	406,470		
Information technology	1,038,049	1,104,710	19,000	1,104,710		
Combined services	819,621	645,550	107,000	752,550		
	425,124	274,180	18,000	292,180		
Council projects	425,124	274,100	10,000	292,100		
Public safety: Police	7 204 424	6 964 920		6 064 020		
	7,204,431	6,864,820	40.000	6,864,820		
Emergency Communications	- - -	942,490	40,000	982,490		
Fire	5,493,330	5,674,120	116,000	5,790,120		
Development services	563,271	783,720	45.000	783,720		
Streets	1,421,464	1,689,200	15,000	1,704,200		
Parks and Recreation:	0.070.505	0.574.550		0.574.550		
Parks	2,372,595	2,571,550	-	2,571,550		
Recreation	1,253,588	1,282,890		1,282,890		
TOTAL EXPENDITURES	24,447,669	25,479,180	413,000	25,892,180		
OTHER FINANCING SOURCES (USES)):					
Transfer to Parks capital project fund	(263,000)					
ENDING FUND BALANCE	\$ 8,175,180	\$ 8,626,350	\$ 446,280	\$ 9,072,630		

TOWN OF ADDISON HOTEL SPECIAL REVENUE FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amended 2006-07 Annual Budge

		Original		Amended	
	Actual	Budget			
	2005-06	2006-07	Amendments	2006-07	
BEGINNING BALANCE	\$ 4,617,539	\$ 4,206,050	\$ 433,000	\$ 4,639,050	
REVENUES:					
Hotel/Motel occupancy taxes	4,679,099	4,672,500	300,000	4,972,500	
Proceeds from special events	1,117,761	1,122,000	100,000	1,222,000	
Conference centre rental	454,948	500,000	-	500,000	
Theatre centre rental	79,418	81,000	-	81,000	
Interest earnings and other	208,408	267,700		267,700	
TOTAL REVENUES	6,539,634	6,643,200	400,000	7,043,200	
TOTAL AVAILABLE RESOURCES	11,157,173	10,849,250	833,000	11,682,250	
EXPENDITURES:					
Visitor services administration	718,449	829,920	50,000	879,920	
Marketing	994,054	1,077,440	· -	1,077,440	
Special events	2,469,938	2,561,760	117,000	2,678,760	
Conference centre	1,118,079	955,150	5,000	960,150	
Performing arts	500,884	625,780	(47,000)	578,780	
Capital projects	10,829				
TOTAL EXPENDITURES	5,812,233	6,050,050	125,000	6,175,050	
OTHER FINANCING SOURCES (USES):					
Transfer to Debt Service fund	(705,890)	(706,710)		(706,710)	
ENDING FUND BALANCE	\$ 4,639,050	\$ 4,092,490	\$ 708,000	\$ 4,800,490	

TOWN OF ADDISON PUBLIC SAFETY SPECIAL REVENUE FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amended 2006-07 Annual Budger

	Original							Amended	
	Actual 2005-06		Budget					Budget	
			2006-07		Amendments		2006-07		
BEGINNING BALANCE	\$	38,154	\$	85,150	\$	16,770	\$	101,920	
REVENUES:									
Court awards		62,767		5,000		-		5,000	
Interest earnings and other		3,622		1,000		-		1,000	
TOTAL REVENUES		66,389		6,000		-		6,000	
TOTAL AVAILABLE RESOURCES		104,543		91,150		16,770		107,920	
EXPENDITURES:									
Supplies		-		5,000		-		5,000	
Contractual services		2,620		15,000		-		15,000	
Capital Equipment		-		50,000		_		50,000	
TOTAL EXPENDITURES		2,620		70,000		-		70,000	
ENDING BALANCE	\$	101,923	\$	21,150	\$	16,770	\$	37,920	

MUNICIPAL COURT SPECIAL REVENUE FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amended 2006-07 Annual Budget

	Actual 2005-06		Original Budget 2006-07	Amendments		Amended Budget 2006-07	
BEGINNING BALANCE	\$	86,517	\$ 100,500	\$	6,050	\$	106,550
REVENUES:							
Court security fees		22,183	20,000		-		20,000
Court technology fees		28,519	25,000		-		25,000
Interest earnings and other		14,147	7,000		-		7,000
TOTAL REVENUES		64,849	52,000		-		52,000
TOTAL AVAILABLE RESOURCES		151,366	 152,500		6,050		158,550
EXPENDITURES:							
Personal services		15,458	8,990		_		8,990
Supplies		3,515	4,000		-		4,000
Maintenance and materials		1,088	-		-		-
Contractual Services		-	2,000		-		2,000
Capital outlay		24,753	-		8,500		8,500
TOTAL EXPENDITURES		44,814	14,990		8,500		23,490
ENDING BALANCE	\$	106,552	\$ 137,510	\$	(2,450)	\$	135,060

TOWN OF ADDISON ARBOR SPECIAL REVENUE FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

	2006	4 7 75 7	
Amendea	2006 - 07 /	Annual Budge	t

	Original			Α	Amended				
		Actual		Budget			Budget		
	2005-06		2006-07		Amendments		2	2006-07	
BEGINNING BALANCE	\$	87,337	\$	83,900	\$	940	\$	84,840	
REVENUES:									
Recycling proceeds		29,311		20,000		_		20,000	
Contributions		10,115		5,000		_		5,000	
Interest earnings and other		3,808		2,000		-		2,000	
TOTAL REVENUES		43,234		27,000		-		27,000	
TOTAL AVAILABLE RESOURCES		130,571		110,900		940		111,840	
EXPENDITURES:									
Maintenance and materials		37,540		6,000		_		6,000	
Contractual services		8,196		-		_		-	
TOTAL EXPENDITURES		45,736		6,000		-		6,000	
ENDING BALANCE	\$	84,835	\$	104,900	\$	940	\$	105,840	

TOWN OF ADDISON GENERAL OBLIGATION DEBT SERVICE FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

	Actual	Amended Budget		
	2005-06	Budget 2006-07	Amendments	2006-07
BEGINNING BALANCE	\$ 1,401,992	\$ 1,577,300	\$ 72,130	\$ 1,649,430
REVENUES:				
Ad valorem taxes	4,747,185	4,628,620	-	4,628,620
Interest earnings and other	99,503	70,000	-	70,000
TOTAL REVENUES	4,846,688	4,698,620		4,698,620
	·			
TOTAL AVAILABLE RESOURCES	6,248,680	6,275,920	72,130	6,348,050
EXPENDITURES:				
Debt Service - Principal	3,105,000	3,255,000	-	3,255,000
Debt Service - Interest and fiscal charges	1,620,664	1,438,260		1,438,260
TOTAL EXPENDITURES	4,725,664	4,693,260		4,693,260
OTHER FINANCING SOURCES (USES):				
Proceeds from refunding bonds issued	6,355,000	-	_	-
Payment to refunded bond escrow agent	(6,228,588)			
TOTAL OTHER FINANCING (USES)	126,412			
ENDING BALANCE	\$ 1,649,428	\$ 1,582,660	\$ 72,130	\$ 1,654,790

OCCUPANCY TAX DEBT SERVICE FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amen	ded 20	006-07 Annı	ıal Bı	udget				
		Actual 2005-06	Original Budget 2006-07 Amendments		Amended Budget 2006-07			
BEGINNING BALANCE	\$	778,627	\$	799,130	\$	11,810	\$	810,940
REVENUES: Interest earnings TOTAL REVENUES		32,607 32,607	_	20,000	_	<u>-</u>		20,000
TOTAL AVAILABLE RESOURCES		811,234		819,130		11,810		830,940
EXPENDITURES: Debt Service - Principal Debt Service - Interest and fiscal charges TOTAL EXPENDITURES	_	465,000 241,188 706,188		480,000 227,210 707,210		- - -		480,000 227,210 707,210
OTHER FINANCING SOURCES (USES): Transfer from Hotel fund TOTAL OTHER FINANCING (USES)		705,890 705,890		706,710 706,710	_	<u>-</u>		706,710 706,710
ENDING BALANCE	\$	810,936	\$	818,630	\$	11,810	\$	830,440

TOWN OF ADDISON STREET CAPITAL PROJECT FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amended 2006-07 Annual Budge	t
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		Original		Amended
	Actual	Budget		Budget
	2005-06	2006-07	Amendments	2006-07
BEGINNING BALANCE	\$ 3,844,051	\$ 3,965,050	\$ 24,240	\$ 3,989,290
REVENUES:				
DART Grants	-	752,000	-	752,000
Interest earnings and other	183,846	100,000	_	100,000
TOTAL REVENUES	183,846	852,000	_	852,000
TOTAL AVAILABLE RESOURCES	4,027,897	4,817,050	24,240	4,841,290
			· · · · · · · · · · · · · · · · · · ·	
EXPENDITURES:				
Personal services	21,145	8,000	-	8,000
Engineering and contractual services	17,463	45,000	-	45,000
Construction and equipment	-	2,910,000	_	2,910,000
TOTAL EXPENDITURES	38,608	2,963,000		2,963,000
ENDING BALANCE	\$ 3,989,289	\$ 1,854,050	\$ 24,240	\$ 1,878,290

PARKS CAPITAL PROJECT FUND STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES TO FUND BALANCE

Amended 2006-07 Annual Budget Original Amended Actual Budget **Budget** 2005-06 2006-07 2006-07 Amendments **BEGINNING BALANCE** 411,016 629,290 11,000 640,290 **REVENUES:** Interest earnings and other 28,167 20,000 20,000 Developer contributions **TOTAL REVENUES** 28,167 20,000 20,000 TOTAL AVAILABLE RESOURCES 439,183 649,290 11,000 660,290 **EXPENDITURES:** 1,252 Personal services 25,408 Engineering, and contractual services Construction and equipment 35,230 TOTAL EXPENDITURES 61,890 OTHER FINANCING SOURCES (USES): Transfer from General fund 263,000 TOTAL OTHER FINANCING (USES) 263,000 **ENDING BALANCE** 649,290 11,000 660,290 \$ 640,293 \$ \$

TOWN OF ADDISON 2000 CAPITAL PROJECT FUND STATEMENT OF REVENUES AND EXPENDITURES

Amended 2006-07 Annual Budger

	Actual 2005-06		Orig Bud 2006	lget	Amend	Iments	Amended Budget 2006-07		
BEGINNING BALANCE	\$	70,114	\$		\$		\$		
REVENUES: Interest earnings and other TOTAL REVENUES		765 765		<u>-</u>		<u>-</u>		<u>-</u>	
TOTAL AVAILABLE RESOURCES		70,879							
EXPENDITURES: Personal services Supplies Engineering and contractual services Construction and equipment TOTAL EXPENDITURES		353 2,340 68,186 - 70,879		- - - -		- - - -		- - - -	
ENDING FUND BALANCE	\$		\$		\$		\$		

2002 CAPITAL PROJECT FUND STATEMENT OF REVENUES AND EXPENDITURES Amended 2006-07 Annual Budget								
	Actual 2005-06	Amended Budget 2006-07						
BEGINNING BALANCE	\$ 2,316,150	\$ 1,986,930	\$ 161,250	\$ 2,148,180				
REVENUES: Intergovernmental grants Interest earnings and other TOTAL REVENUES	100,547 100,547	60,000 60,000	- - -	60,000 60,000				
TOTAL AVAILABLE RESOURCES	2,416,697	2,046,930	161,250	2,208,180				
EXPENDITURES: Personal services Engineering and contractual services Construction and equipment TOTAL EXPENDITURES	27,309 241,207 - 268,516	25,000 200,000 - 225,000	- - - -	25,000 200,000 - 225,000				
ENDING FUND BALANCE	\$ 2,148,181	\$ 1,821,930	\$ 161,250	\$ 1,983,180				

2004 CAPITAL PROJECT FUND
STATEMENT OF REVENUES AND EXPENDITURES

STATEMENT OF REVENUES AND EAST ENDITURES								
Aı	mended 2006-07 Anni	ıal Budget						
	Actual 2005-06	Original Budget 2006-07	Amendments	Amended Budget 2006-07				
BEGINNING BALANCE	\$ 2,582,984	\$ 299,980	\$ 96,790	\$ 396,770				
REVENUES:								
Intergovernmental	1,440,734	-	-	-				
Interest earnings & other	59,971	10,000		10,000				
TOTAL REVENUES	1,500,705	10,000		10,000				
TOTAL AVAILABLE RESOURCES	4,083,689	309,980	96,790	406,770				
EXPENDITURES:								
Personal services	325	-	=	_				
Engineering & contractual services	89,311	=	_	_				
Construction & equipment	3,597,286	_	_	_				
TOTAL EXPENDITURES	3,686,922	-						
ENDING FUND BALANCE	\$ 396,767	\$ 309,980	\$ 96,790	\$ 406,770				

TOWN OF ADDISON
2006 CAPITAL PROJECT FUND
STATEMENT OF REVENUES AND EXPENDITURES

Ame	naea 2000-	v/Annu	ai Duage	ટા				
			Orig	jinal			А	mended
	Act	ual	Buc	lget				Budget
	2005	5-06	2000	6-07	Am	endments		2006-07
BEGINNING BALANCE	\$		\$		\$	378,900	\$	378,900
REVENUES:								
Interest earnings & other	4	10,064		_		-		-
TOTAL REVENUES		10,064		_		_		-
TOTAL AVAILABLE RESOURCES		10,064				378,900		378,900
EXPENDITURES:								
Personal services		77		_				
Engineering & contractual services		8,355		-				
Construction & equipment	1,15	52,735				-		
TOTAL EXPENDITURES	1,16	61,167						
OTHER FINANCING SOURCES (USES):								
Bond Proceeds	1,50	00,000		-		-		-
TOTAL OTHER FINANCING (USES)	1,50	00,000		-		-		_
ENDING FUND BALANCE	\$ 37	78,897	\$	_	\$	378,900	\$	378,900

TOWN OF ADDISON AIRPORT ENTERPRISE FUND STATEMENT OF INCOME AND CHANGES IN WORKING CAPITAL

Amende	d 2006-0'	7 Annual	Rudget
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2111101	iueu 2000-07 Anni			A magadad
	A -41	Original		Amended
	Actual	Budget		Budget
INCOME OTATEMENT	2005-06	2006-07	Amendments	2006-07
INCOME STATEMENT				
Operating revenues:	00.000		•	
Operating grants	30,000	\$ 30,000	\$ -	\$ 30,000
Fuel flowage fees	1,025,291	1,050,000	-	1,050,000
Rental	3,002,820	3,128,000	=	3,128,000
User fees	30,416	35,000		35,000
Total operating revenues	4,088,527	4,243,000		4,243,000
Operating expenses:				
Town - Administration	815,014	765,230	140,000	905,230
Grant - Maintenance	, -	60,000	, -	60,000
Operator - Operations & Maintenance	1,682,481	1,867,330	_	1,867,330
Operator - Service Contract	942,648	984,700	_	984,700
Total operating expenses	3,440,143	3,677,260	140,000	3,817,260
Net operating income	648,384	565,740	(140,000)	425,740
g			(110,000)	
Non-Operating revenues (expenses):				
Interest earnings and other	182,187	78,000	_	78,000
Refund of prior year fees	(76,200)	-	_	-
Interest on debt, fiscal fees, & other	(168,943)	(161,270)	_	(161,270)
Net non-operating	(100,040)	(101,270)		(101,210)
revenues (expenses)	(62,956)	(83,270)	_	(83,270)
revenues (expenses)	(02,930)	(83,270)		(65,270)
Net income (excluding depreciation)	\$ 585,428	\$ 482,470	\$ (140,000)	\$ 342,470
CHANGES IN WORKING CAPITAL				
Net income (excluding depreciation)	\$ 585,428	\$ 482,470	\$ (140,000)	\$ 342,470
Sources (uses) of working capital:				
Bond Proceeds	-	-	-	-
Retirement of long-term debt	(215,000)	(225,000)	_	(225,000)
Other net additions to fixed assets	(1,561,856)	(1,411,500)	_	(1,411,500)
Net increase in other	(7,509)	(.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	_	(.,,000)
Net sources (uses) of	(1,000)			
working capital	(1,784,365)	(1,636,500)	-	(1,636,500)
Net increase (decrease) in				
working capital	(1,198,937)	(1,154,030)	(140,000)	(1,294,030)
Beginning fund balance	3,180,444	1,842,290	139,220	1,981,510
Ending fund belongs	¢ 4.004.507	¢ 600,000	ф (700)	¢ 607.400
Ending fund balance	\$ 1,981,507	\$ 688,260	\$ (780)	\$ 687,480

TOWN OF ADDISON UTILITY ENTERPRISE FUND STATEMENT OF INCOME AND CHANGES IN WORKING CAPITAL

Amended 2006-07 Annual Budger	t
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Ame	ended 2006-07 Anni	ual Budget		
		Original		Amended
	Actual	Budget		Budget
	2005-06	2006-07	Amendments	2006-07
INCOME STATEMENT				
Operating revenues:				
Water sales	\$ 5,697,631	\$ 4,696,700	\$ -	\$ 4,696,700
Sewer charges	5,022,161	4,555,800	_	4,555,800
Tap fees	6,300	5,000	_	5,000
Penalties	51,751	55,000	_	55,000
Total operating revenues	10,777,843	9,312,500		9,312,500
Operating expenses:				
Water purchases	2,562,592	2,594,200	_	2,594,200
Wastewater treatment	1,807,619	2,148,300	_	2,148,300
Utility operations	2,067,129	2,239,180	_	2,239,180
Total operating expenses	6,437,340	6,981,680		6,981,680
Net operating income	4,340,503	2,330,820		2,330,820
Net operating income	4,340,303	2,330,620		2,330,820
Non-Operating revenues (expenses):				
Interest earnings and other	233,547	100,000	-	100,000
Interest on debt, fiscal fees, & other	(707,505)	(579,060)		(579,060)
Net non-operating revenues (expenses)	(473,958)	(479,060)		(479,060)
Net income (excluding depreciation)	\$ 3,866,545	\$ 1,851,760	\$ -	\$ 1,851,760
CHANGES IN WORKING CAPITAL				
Net income	\$ 3,866,545	\$ 1,851,760	\$ -	\$ 1,851,760
(excluding depreciation)				
Sources (uses) of working capital:				
Retirement of long-term debt	(1,682,142)	(2,030,230)	-	(2,030,230)
Net additions to fixed assets	(225,635)	(980,400)	-	(980,400)
Net increase in other	(39,207)			
Net sources (uses) of				
working capital	(1,946,984)	(3,010,630)		(3,010,630)
Net increase (decrease) in				
working capital	1,919,561	(1,158,870)	-	(1,158,870)
Beginning fund balance	1,869,466	2,411,440	1,377,590	3,789,030
Ending fund balance	\$ 3,789,027	\$ 1,252,570	\$ 1,377,590	\$ 2,630,160
				=

TOWN OF ADDISON INFORMATION TECHNOLOGY INTERNAL SERVICE FUND STATEMENT OF INCOME AND CHANGES IN WORKING CAPITAL

Amended 2006-07 Annual Budget

7 III CI	incu 2	UUU-U/ Amm	illi L					
				Original			F	Amended
		Actual		Budget				Budget
		2005-06		2006-07	Am	endments		2006-07
INCOME STATEMENT	-							
Operating revenues:								
. •	\$	442 720	σ	440 520	Φ		ው	440 520
Department contributions:	<u> </u>	413,730	\$	419,520	\$		Φ	419,520
Total operating revenues		413,730		419,520				419,520
Operating expenses:								
Contractual services		1,247		2,500		_		2,500
Total operating expenses		1,247		2,500		_		2,500
rotal operating expenses		.,		2,000				2,000
Net operating income		412,483		417,020				417,020
Non-operating Revenues:								
Interest earnings and other		89,420		40,000		_		40,000
Net non-operating revenues		89,420	_	40,000				40,000
Net non-operating revenues		09,420		40,000				40,000
Net income (excluding depreciation)	\$	501,903	\$	457,020	\$	_	\$	457,020
CHANGES IN WORKING CAPITAL								
Net income (excluding depreciation)	\$	501,903	\$	457,020	\$	-	\$	457,020
Sources (uses) of working capital:								
Capital hardware/software:								
General government		(2,950)		(235,000)		_		(235,000)
Public safety		(53,497)		(230,000)				(230,000)
•	-							
Net sources (uses) of working capital		(56,447)		(465,000)				(465,000)
Net increase (decrease) in working capital		445,456		(7,980)		_		(7,980)
Beginning fund balance		1,686,008		2,060,240		71,220		2,131,460
Ending fund Balance	\$	2,131,464	\$	2,052,260	\$	71,220	\$	2,123,480
Enanty faile Deletion		_, 101, 104	Ψ	_,002,200	<u> </u>	11,220	<u> </u>	2,120,100

TOWN OF ADDISON CAPITAL REPLACEMENT INTERNAL SERVICE FUND STATEMENT OF INCOME AND CHANGES IN WORKING CAPITAL

Ame	naea 2000-07 Ann	U		
		Original		Amended
	Actual	Budget		Budget
	2005-06	2006-07	Amendments	2006-07
INCOME STATEMENT				
Operating revenues:				
Department contributions	\$ 692,622	¢ 667.920	¢	¢ 667 920
		\$ 667,820	\$ -	\$ 667,820
Total operating revenues	692,622	667,820		667,820
Operating expenses:				
Other	1,248	2,500		2,500
Total operating expenses	1,248	2,500		2,500
Net operating income	691,374	665,320	_	665,320
				· · · · · · · · · · · · · · · · · · ·
Non-Operating revenues:				
Interest earnings and other	117,142	90,000	_	90,000
Proceeds from sale of assets	103,079	25,000	_	25,000
Net non-operating revenues	220,221	115,000		115,000
Net non-operating revenues	220,221	115,000		113,000
Net Income				
(Excluding depreciation)	\$ 911,595	\$ 780,320	\$ -	\$ 780,320
CHANGES IN WORKING CAPITAL				
Net income				
(excluding depreciation)	\$ 911,595	\$ 780,320	\$ -	\$ 780,320
(oxolading depression)	Ψ 011,000	Ψ 100,020	<u> </u>	Ψ 100,020
Sources (uses) of working capital:				
Acquisition of capital equipment:				
	(26.005)	(250,000)		(250,000)
General government	(26,805)	(250,000)	-	(250,000)
Public safety	(53,010)	(602,000)	-	(602,000)
Streets	(23,153)	-	-	-
Parks and recreation	(19,501)	(78,800)		(78,800)
Net source (use) of working capital	(122,469)	(930,800)		(930,800)
Net increase (decrease) in working capital	789,126	(150,480)	-	(150,480)
Beginning fund balance	2,113,480	2,884,640	17,970	2,902,610
Ending fund balance	\$ 2,902,606	\$ 2,734,160	\$ 17,970	\$ 2,752,130
-				

1 N	ORDINANCE #	
AIN	UKDINANUE #	

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE ANNUAL BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2007; PROVIDING THAT EXPENDITURES SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET; PROVIDING FOR A REPEAL CLAUSE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, THAT:

SECTION 1. That in accordance with Section 5.08 of the City Charter, Ordinance No. <u>006-028</u> of the Town of Addison, Texas, amending the 2006-07 annual budget, be amended to appropriate \$58,342,390 for budget expenditures in the particulars stated in Exhibits A, B, and C attached and made a part of this ordinance.

SECTION 2. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the city not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. The importance of this ordinance creates an emergency and an imperative public necessity, and the ordinance shall take effect and be in force from and after its adoption.

PASSED AND APPROVED BY MAJORITY VOTE OF THE CITY COUNCIL, the 10th day of July 2007.

Mayor Joe Chow	
ATTEST:	
Mario Canizares, City Secretary	

Council Agenda Item:<u>#R19</u>

There are no attachments for this item.

Council Agenda Item: #R20

There are no attachments for this item.

Council Agenda Item: #R21

SUMMARY:

Discussion and consideration of approval of an Ordinance amending Chapter 14 (Aviation) of the Code of Ordinances of the Town of Addison by amending Division 3 (Off-Airport Access to Airport) of Article III (Municipal Airport) by amending Section 14-106(d) regarding the content of an Airport access permit (including assignment provisions), Section 14-106(f) relating to the term of an Airport access permit, and Section 14-107(g)(ii) regarding adjustment of the Airport access fee.

FINANCIAL IMPACT: None.

BACKGROUND

If adopted, the proposed ordinance will modify portions of the provisions of Chapter 14, Aviation, relating to access to Addison Airport from property located off of the Airport (so called "through-the-fence" access). Proposed amendments are to: (i) Section 14-106(d) by adding language that assignment of an access permit is not to be unreasonably withheld and not to be withheld on the basis of a lawful use of the off-Airport property as of the effective date of the amendment; (ii) Section 14-106(f) changing the term of a permit to a 25 year term with automatic renewal of an additional 15 years; and (iii) Section 14-107(g)(ii) by providing that the access fee is recalculated at the beginning of each renewal term, and that the access fee is subject to an adjustment pursuant to the consumer price index as set forth in the ordinance

RECOMMENDATION: Staff recommends approval

TOWN OF ADDISON, TEXAS

ONDINANCE NO.	ORDINA	NCE	NO.	
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AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 14 (AVIATION) OF THE CODE OF ORDINANCES OF THE CITY BY AMENDING DIVISION 3 (OFF-AIRPORT ACCESS TO AIRPORT) OF ARTICLE III (MUNICIPAL AIRPORT) THEREOF BY AMENDING SECTION 14-106(D) (REGARDING CONTENTS OF AN PERMIT, **INCLUDING** ACCESS **ASSIGNMENT** PROVISIONS), SECTION 14-106(F) (RELATING TO THE TERM OF AN ACCESS PERMIT), AND SECTION 14-107(G)(II) (REGARDING ADJUSTMENT TO THE ACCESS FEE); PROVIDING A SAVINGS CLAUSE; PROVIDING A **SEVERABILITY** CLAUSE; AND **PROVIDING** EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

- **Section 1.** <u>Amendment</u>. Chapter 14 (Aviation) of the Code of Ordinances (the "Code") of the Town of Addison, Texas (the "City") is hereby amended by amending Division 3 (Off-Airport Access to Airport) to Article III (Municipal Airport) of Chapter 14 in the following particulars, and all other parts of the said Code are not amended but are ratified and affirmed:
- A. Section 14-106 (Access Permit) of Chapter 14 of the Code is hereby amended by amending subsections (d) and (f) thereof to read as follows (additions are <u>underlined</u>; deletions are <u>struck-through</u>):
 - Contents of Access Permit; Periodic Recertification; Amendment. The Access (d) Permit shall identify the use and/or intended use of the Off-Airport Property (i.e., either a Recreational/Incidental Business Use or a Commercial Aeronautical Use), specify the size of the Off-Airport Property (for a Commercial Aviation Use only) and the fee to be paid in connection with any Off-Airport Access, and shall contain such other terms, conditions, and requirements as the City Manager or Airport Director may deem appropriate (including, without limitation, insurance and indemnity requirements, no assignment or other transfer without the City's prior consent (not to be unreasonably withheld, and not to be withheld on the basis of a lawful use of the Off-Airport Property 2007), default, termination and remedies therefor, standards existing as of regarding environmental matters, authorized uses, standards and requirements regarding Addison special events, late charges and interest, and compliance with the terms and conditions of this Division). An Access Permit may not be sold, assigned, sublet, pledged, conveyed, or otherwise transferred without the prior written consent of the City. Periodically, the Airport Director may request an Off-Airport User to recertify the Off-Airport User's Access Permit by affirming the authorized users, registered aircraft,

contact information, updated emergency and security plan, size of Off-Airport Property (for a Commercial Aviation Use only), permitted use or other terms and conditions of this Division

- (f) Term. Subject to the provisions, terms and conditions of this Division and an Access Permit, an Access Permit shall be issued for a term of twenty-fiveten (2510) years (the "Initial Term"). At the end of the Initial Term, an Access Permit shall be automatically renewed for an additional period of fifteenten (1510) years, and at the end of the second ten (10) year period shall be automatically renewed for an additional period of ten (10) years (theeach such renewal term of ten (10) years is a "Renewal Term"), for a total term of thirty (30) years. Thereafter, an Access Permit may be renewed in accordance with then applicable laws, ordinances, rules, standards and regulations.
- B. Section 14-107 (Fee Calculation; Time of Payment; Penalty for Late Payment) of Chapter 14 of the Code is hereby amended by amending subparagraph (ii) of subsection (g) (Adjustment to Access Fee) thereof to read as follows (additions are <u>underlined</u>; deletions are <u>struck-through</u>):
 - (ii) An Access Fee shall be further adjusted as follows: At or about the beginning of the automaticeach Renewal Term (as defined in Section 14-106(f), above) and at or about the beginning of any additional renewals thereafter as may be approved by the City, the Access Fee shall be determined by recalculating the same in accordance with the provisions of this Division (e.g., for a Commercial Aviation Use, the Access Fee shall be recalculated pursuant to the Commercial Aviation Use Access Fee Formula). Such Access Fee shall then be subject thereafter to the CPI Adjustment as set forth in and in accordance with subsection (g)(i) of this Section.
- **Section 2.** Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.
- Section 3 Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.
- **Section 4.** Effective Date. This Ordinance shall become effective from and after its date of passage and approval and publication as may be required by law.

	PASSED AND	APPROVED	by the City	Council	of the	Town	of Addison,	Texas	this
the	day of		, 2007.						

Joe Chow, Mayor

ATTEST:	
By: Mario Canizares, City Secretary	_
APPROVED AS TO FORM:	
By:	_

Council Agenda Item:<u>#R22</u>

There are no attachments for this item.